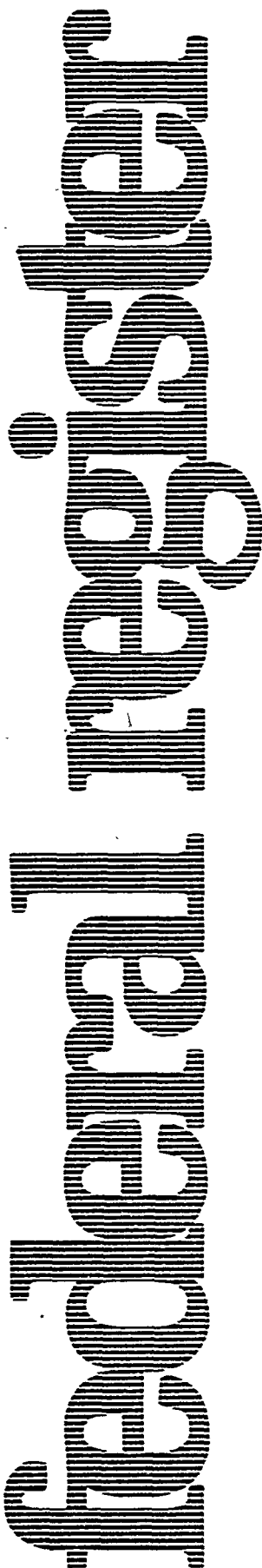


Wednesday  
December 5, 1979



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## Highlights

- 69992 **Ethnic Heritage Studies Program** HEW/OE invites applications for the award of grants for new projects; apply by 3-5-80
- 69924 **Income Tax** Treasury/IRS provides final rules relating to the exemption from motor fuels excise taxes for certain alcohol fuels
- 70017 **Short Form Gift Tax Return** Treasury/IRS releases notice proposing issuance of a new form; comments by 2-15-80
- 70086 **Confidentiality, Access to Records and Council Factfinding** CWPS adopts in final form; effective 12-5-79 (Part IV of this issue)
- 70064 **Grants to Indian Tribal Organizations Program** HEW/HDSO proposes new regulations for a new program for older Indians; comments by 2-4-80 (Part II of this issue)
- 69937 **Multiple Family Housing** USDA/FmHA proposes a rule pertaining to the management and supervision of borrowers and grant recipients; comments by 2-4-80
- 69920 **Octane Ratings** FTC includes "producers" under Title II of the Petroleum Marketing Practices Act; effective 12-5-79

CONTINUED INSIDE



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## Highlights

- 70076 Federal Fund Allocation** Commerce/Office of Federal Statistical Policy and Standards is undertaking an inter-departmental effort to standardize population projections; comments by 3-5-80 (Part III of this issue)
- 70079 Federal Fund Assistance** OMB issues intention to develop procedures for coordination between State and substate units of government in the preparation of population projections; comments by 3-4-80 (Part III of this issue)
- 69933 AM, FM and TV Services** FCC combines rules pertaining to "station location and program origination"; "authority to move main studio" and "station location, main studio location"; effective 12-10-79
- 69982 Unlicensed Two-Wheeled Motorized** CPSC denies petition to regulate
- 69962 Motor Gasoline Allocation** DOE/ERA proposes downward certification provision; comments by 1-31-80
- 69962 National Environmental Policy** WRC publishes rules to comply with the Council on Environmental Quality in regards to the Act; effective 1-4-80
- 69919 Powerplant and Industrial Fuel Use** DOE/ERA clarifies conditions of a "new" installation; effective 11-30-79
- 70106 Briefs** Occupational Safety and Health Review Commission clarifies and expedites proceedings (Part VI of this issue)
- 69927 Helium** Interior/Mines establishes a new schedule of prices and charges associated with sales; effective 2-1-80
- 70060 Sunshine Act Meetings**

### Separate Parts of This Issue

- 70064 Part II, HEW/HDSO**
- 70076 Part III, Commerce/Office of Federal Statistical Policy and Standard and OMB**
- 70086 Part IV, CWPS**
- 70094 Part V, OMB**
- 70106 Part VI, Occupational Safety and Health Review Commission**

# Contents

Federal Register

Vol. 44, No. 235

Wednesday, December 5, 1979

- Administrative Conference of United States**  
NOTICES  
69979 Improving Government regulations; forum
- Agricultural Marketing Service**  
RULES  
69919 Dates (domestic) produced in Calif.  
69918 Lemons grown in Ariz. and Calif.  
69917, 69918 Oranges, grapefruits, tangerines, and tangelos grown in Fla. (2 documents)
- Agriculture Department**  
*See* Agricultural Marketing Service; Farmers Home Administration; Science and Education Administration; Soil Conservation Service.
- Antitrust Division**  
NOTICES  
70010 Competitive impact statements and proposed consent judgments:  
Tobacco Distributors' Assoc. of N.J., et al.
- Blind and Other Severely Handicapped, Committee for Purchase from**  
NOTICES  
69982 Procurement list, 1980; establishment; correction
- Civil Aeronautics Board**  
PROPOSED RULES  
69968 Air carriers; certificated:  
Passenger origin-destination survey; correction  
NOTICES  
Hearings, etc.:  
69979 Great Northern Airlines, Inc., service mail rates investigation  
69980 Kansas City-Memphis/Omaha/Sioux City show cause proceeding  
69981 Northwest Alaska bush points Christmas mail service exemptions  
70060 Meetings; Sunshine Act (2 documents)
- Commerce Department**  
*See* Federal Statistical Policy and Standards Office; Industry and Trade Administration; National Oceanic and Atmospheric Administration.
- Commodity Futures Trading Commission**  
NOTICES  
70060 Meetings; Sunshine Act
- Consumer Product Safety Commission**  
NOTICES  
69982 Motorized vehicles, unlicensed two-wheeled; petition denied
- Copyright Office, Library of Congress**  
PROPOSED RULES  
69977 Claims registration:  
Blank forms; inquiry
- Economic Regulatory Administration**  
RULES  
69919 Powerplant and industrial fuel use:  
Transitional facilities; classification of powerplants and installations; "new" major fuel burning installations; clarification  
PROPOSED RULES  
69962 Petroleum allocation and price regulations:  
Motor gasoline allocation; adjustments and downward certification; wholesale purchaser-resellers; inquiry and hearing  
NOTICES  
69983 Natural gas; fuel oil displacement certification applications:  
Northern Natural Gas Co.
- Education Office**  
NOTICES  
69992 Grant applications and proposals, closing dates:  
Ethnic Heritage Studies Program  
69993 Indian Education Act; Indian definition study; hearings
- Energy Department**  
*See also* Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.  
NOTICES  
Meetings:  
69983 International Energy Agency Industry Advisory Board
- Environmental Protection Agency**  
RULES  
69928 Air quality implementation plans; approval and promulgation; various States, etc.:  
Ohio  
PROPOSED RULES  
69978 Air quality implementation plans; delayed compliance orders:  
Indiana
- Farmers Home Administration**  
PROPOSED RULES  
69937 Rural housing loans and grants:  
Multiple family housing borrowers and grant recipients
- Federal Communications Commission**  
RULES  
69933 Radio and television broadcasting:  
AM, FM, and television station location and program origination  
NOTICES  
70060 Meetings; Sunshine Act (2 documents)
- Federal Deposit Insurance Corporation**  
NOTICES  
70061 Meetings; Sunshine Act (2 documents)
- Federal Election Commission**  
NOTICES  
70061 Meetings; Sunshine Act

- Federal Energy Regulatory Commission**  
**RULES**  
 69935 Natural Gas Policy Act of 1978:  
 Production related costs recovery; Prudhoe Bay Unit, Alaska; effective date stayed and rehearing  
**PROPOSED RULES**  
 69978 Small power production and cogeneration; qualification and rates and exemptions; comment period extended
- Federal Maritime Commission**  
**NOTICES**  
 69991 Complaints filed:  
 Quality Food Corp. v. Tropical Shipping Co., Ltd.
- Federal Reserve System**  
**NOTICES**  
 70061 Meetings; Sunshine Act
- Federal Statistical Policy and Standards Office**  
**NOTICES**  
 70076 Population projection standards for use in Federal fund allocations
- Federal Trade Commission**  
**RULES**  
 69920 Octane ratings of automotive gasoline; certification and posting; reaffirmation of coverage of "producers"
- General Services Administration**  
*See also* National Archives and Records Service  
**NOTICES**  
 69992 Teleprocessing Services Program Handbook, availability
- Health, Education, and Welfare Department**  
*See also* Education Office; Health Resources Administration; Human Development Services Office; Public Health Service.  
**NOTICES**  
 69993 Meetings:  
 Financing Elementary and Secondary Education Advisory Panel
- Health Resources Administration**  
**NOTICES**  
 69994 Meetings; Advisory committees:  
 January (1980)
- Hearings and Appeals Office, Energy Department**  
**NOTICES**  
 Applications for exception:  
 69984 Cases filed  
 69986, 69987 Decisions and orders (2 documents)  
 Remedial orders:  
 69990, 69991 Objections filed (4 documents)
- Housing and Urban Development Department**  
**PROPOSED RULES**  
 69977 Mortgage-backed securities program; marketing and trading activities of issuers; transmittal to Congress
- Human Development Services Office**  
**PROPOSED RULES**  
 Older Americans programs:  
 70064 Indian tribes: social and nutritional services and senior centers
- Industry and Trade Administration**  
**PROPOSED RULES**  
 Export licensing:  
 69968 Short supply controls and monitoring; metallic materials capable of being recycled; advance notice and inquiry
- Interior Department**  
*See* Land Management Bureau; Mines Bureau; National Park Service; Surface Mining Office.
- Internal Revenue Service**  
**RULES**  
 Excise taxes:  
 69924 Motor fuels, alcohol (gasohol); exemption  
**NOTICES**  
 Gift taxes:  
 70017 Short form gift tax return, proposed, 1981 fiscal year (form 709-A); inquiry
- International Trade Commission**  
**NOTICES**  
 Import investigations:  
 70009 Benzenoid chemicals  
 70009 Rotable photograph and card display units and components
- Interstate Commerce Commission**  
**NOTICES**  
 Motor carriers:  
 70021 Agricultural cooperative transportation; filing notices  
 70058 Operating rights applications  
 70022 Temporary authority applications  
 Railroad freight rates and charges; various States, etc.:  
 70022 Colorado  
 70021 Idaho
- Justice Department**  
*See also* Antitrust Division.  
**RULES**  
 Organization, functions, and authority delegations:  
 69926 Federal Bureau of Investigation Director et al.; travel advances
- Land Management Bureau**  
**NOTICES**  
 Alaska native claims selections; applications, etc.:  
 69995 Igiugig Native Corp.  
 69998 Newhalen Native Corp.  
 Applications, etc.:  
 69995 Wyoming  
 Meetings:  
 70001 Shoshone District Grazing Advisory Board  
 Wilderness areas; characteristics, inventories, etc.:  
 70000 Colorado and Utah



<b>Library of Congress</b> See Copyright Office, Library of Congress.		<b>Overseas Private Investment Corporation</b> NOTICES	
	<b>Management and Budget Office</b>	70062	Meetings; Sunshine Act
	NOTICES		
70094	Educational institutions, indirect cost rates, audits and audit fellowships (OMB A-88)		<b>Postal Rate Commission</b> NOTICES
70015	Motion picture and videotape productions; contracting systems	70062	Meetings; Sunshine Act
70079	Population projections preparation on substate basis; State and substate procedures coordination circular		<b>Public Health Service</b> RULES
	<b>Mines Bureau</b>	69933	Indian health; contracts for development, construction and operation facilities and services; advance payments; correction
	RULES		NOTICES
69927	Helium sale; fee schedules	69995	Organization, functions, and authority delegations: Health Resources Administrator; National research awards
	<b>National Aeronautics and Space Administration</b>		<b>Science and Education Administration</b> NOTICES
	RULES		Meetings:
	Boards and committees:	69979	Food and Agricultural Sciences Joint Council
69935	Contract Adjustment Board; correction		<b>Soil Conservation Service</b> NOTICES
69920	National Environmental Policy Act; implementation; correction	69979	Soil and water resources conservation; RCA draft documents; postponement public review period
	NOTICES		<b>Surface Mining Office</b> NOTICES
	Meetings:	70009	Coal management; memorandum of understanding; with BLM and GS availability
70014	Aerospace Safety Advisory Panel		<b>Trade Negotiations, Office of Special Representative</b> NOTICES
	<b>National Archives and Records Service</b>		Marketing agreements; U.S. and listed countries:
	NOTICES	70017	Taiwan
	Meetings:		<b>Treasury Department</b> See Internal Revenue Service.
69992	Archives Advisory Council		<b>Wage and Price Stability Council</b> RULES
	<b>National Oceanic and Atmospheric Administration</b>	70086	Confidentiality and investigatory provisions, and Freedom of Information and Privacy Acts implementation
	PROPOSED RULES		<b>Water Resources Council</b> RULES
	Marine sanctuaries:	69921	National Environmental Policy Act; implementation
69970	Channel Islands		
	<b>National Park Service</b>		
	NOTICES		
	Authority delegations:		
70009	Southwest Region; Procurement Agent		
	Boundary establishment, descriptions, etc.:		
70001	Bent's Old Fort National Historic Site, Colo.		
70003	Chesapeake and Ohio Canal National Historical Park, Md. and W. Va.		
70005	Monocacy National Battlefield, Md.		
70006	Theodore Roosevelt National Memorial Park, N. Dak.		
	<b>Nuclear Regulatory Commission</b>		
	NOTICES		
	Meetings:		
70015	Reactor Safeguards Advisory Committee		
70062	Meetings; Sunshine Act		
	<b>Occupational Safety and Health Review Commission</b>		
	RULES		
	Procedure rules:		
70106	Simplified proceedings, briefs, etc.		
	NOTICES		
70062	Meetings; Sunshine Act (3 documents)		

## MEETINGS ANNOUNCED IN THIS ISSUE

<b>ADMINISTRATIVE CONFERENCE OF THE UNITED STATES</b>	
69979	Forum on Improving the Regulatory Process, 12-14-79
<b>AGRICULTURE DEPARTMENT</b>	
Science and Education Administration—	
69979	Joint Council on Food and Agricultural Sciences, Sciences Executive Committee, 12-10-79

**ENERGY DEPARTMENT**

- 69983 Voluntary Agreement and Plan of Action to Implement the International Energy Program, 12-18-79

**GENERAL SERVICES ADMINISTRATION**

- 69992 Archives Advisory Council, 12-20 and 12-21-79

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

**Health Resources Administration—**

- 69994 National Advisory Council on Nurse Training, 1-21 through 1-23-80

**Office of Education—**

- 69993 Advisory Panel on Financing Elementary and Secondary Education, 12-17 and 12-18-79

- 69993 Indian Definition Study, 1-4, 1-7, 1-9, 1-11, 1-14, 1-16, 1-18, and 2-16-80

**INTERIOR DEPARTMENT**

**Bureau of Land Management—**

- 70001 Shoshone District Grazing Advisory Board, 1-16-80

**NATIONAL AERONAUTICS AND SPACE**

**ADMINISTRATION**

- 70014 Aerospace Safety Advisory Panel, 1-16-80

**NUCLEAR REGULATORY COMMISSION**

- 70015 Advisory Committee on Reactor Safeguards Subcommittee on Site Evaluation, 12-20-79

**HEARING**

**ENERGY DEPARTMENT**

**Economic Regulatory Administration—**

- 69962 Motor Gasoline Allocation, January hearings

**CFR PARTS AFFECTED IN THIS ISSUE**

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

<b>6 CFR</b>	
702.....	70086
703.....	70086
704.....	70086
<b>7 CFR</b>	
905 (2 documents).....	69917, 69918
910.....	69918
912.....	69918
913.....	69918
987.....	69919
<b>Proposed Rules:</b>	
1802.....	69937
1930.....	69937
<b>10 CFR</b>	
515.....	69919
<b>Proposed Rules:</b>	
211.....	69962
<b>14 CFR</b>	
1209.....	69935
1216.....	69920
<b>Proposed Rules:</b>	
241.....	69968
<b>15 CFR</b>	
<b>Proposed Rules:</b>	
377.....	69968
935.....	69970
<b>16 CFR</b>	
306.....	69920
<b>18 CFR</b>	
2.....	69935
271.....	69935
707.....	69921
<b>Proposed Rules:</b>	
292.....	69978
<b>24 CFR</b>	
<b>Proposed Rules:</b>	
390.....	69977
<b>26 CFR</b>	
48.....	69924
<b>28 CFR</b>	
0.....	69926
<b>29 CFR</b>	
2200.....	70106
<b>30 CFR</b>	
601.....	69927
<b>37 CFR</b>	
<b>Proposed Rules:</b>	
202.....	69977
<b>40 CFR</b>	
52.....	69928
<b>Proposed Rules:</b>	
Ch. I.....	69978
<b>42 CFR</b>	
36.....	69933
<b>45 CFR</b>	
<b>Proposed Rules:</b>	
1328.....	70064
<b>47 CFR</b>	
73.....	69933



# Rules and Regulations

Federal Register

Vol. 44, No. 235

Wednesday, December 5, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 3, Amdt. 3]

#### Tangerine Size Requirements

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Amendment to final rule.

**SUMMARY:** This amendment allows each handler to ship a quantity of smaller size Dancy variety tangerines (2½ inches in diameter) during the week December 3 to December 9, 1979, equal to 50 percent of total shipments during a specified prior period. In the absence of this amendment only tangerines 2½ inches in diameter could be shipped. This action will allow an increase in the supply of tangerines during the period specified in recognition of market needs and the size composition of available supply in the interest of growers and consumers.

**EFFECTIVE DATE:** December 3, 1979.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, (202) 447-5975.

**SUPPLEMENTARY INFORMATION:** *Findings.*

(1) This document is issued under marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This marketing order is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation of the committee established under the marketing agreement and order, and upon other available information. It is found that the regulation of shipment of Florida Dancy tangerines, as hereinafter

provided, will tend to effectuate the declared policy of the act.

(2) The minimum size requirements, herein specified, for domestic shipments reflect the Department's appraisal of the need for the amendment of the current regulation to permit handling of smaller size fresh Florida Dancy tangerines during the specified period based on market needs for greater supplies of such variety. Because of the growing conditions in the production area the amount of large fruit is less than anticipated and there is a need to augment the supply by permitting shipment of a proportion of the smaller sized fruit. The Dancy variety continues to size on the tree, and as the season progresses, increased quantities of such fruit is expected to meet the larger minimum size requirement. Relaxation of the minimum size requirements for a portion of each shipper's Dancy tangerine shipments will tend to promote the orderly marketing of Florida tangerines during the overlap period, when both the Robinson and Dancy varieties are being shipped.

The Citrus Administrative Committee, at an open meeting on November 27, 1979, reported that the amendment would allow shipment of approximately 48 additional carlots of Dancy variety tangerines during the specified period. The committee indicated there is a current market demand for limited quantities of smaller size Dancy tangerines, but markets presently can absorb only a portion of the supply of the smaller fruit of such variety without disruption of the markets.

The Department's Crop Reporting Board estimates the 1979-80 season's crop of Florida tangerines at 4.1 million boxes, (approximately 8.2 million cartons). Hence the volume of tangerines is slightly larger than that of last season.

The committee projected the market demand for all varieties of fresh tangerines this season, as follows: Dancy (2,700 carlots); Robinson (1,550 carlots); Honey (1,900 carlots). Each carlot is equivalent to one-thousand cartons. The regulation, as amended, for Dancy tangerines relieves restrictions from those currently in effect, and amendment of such regulation, as hereinafter provided, will tend to avoid disruption of the orderly marketing of tangerines in the public interest.

It is concluded that the amendment of the size requirements, hereinafter set forth, is necessary to establish and maintain orderly marketing conditions and to provide acceptable size fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida tangerines. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comments. The regulation has not been classified significant under the USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202-447-5975.

Accordingly, it is found that the provisions of § 905.303 (Orange, Grapefruit, Tangerine and Tangelo Regulation 3; (44 FR 59195; 65962; 66779), should be and are amended by redesignating paragraph (d) as paragraph (e) and a new paragraph (d) is inserted reading as follows:

§ 905.303 Orange, Grapefruit, Tangerine, and Tangelo Regulation 3.

(d) *Percentage of size regulation applicable to Dancy variety tangerines.* Notwithstanding the provisions of Table I in paragraph (a) of this section, any handler may during the period December 3 through December 9, 1979, ship Dancy variety tangerines smaller than 2½ inches in diameter. *Provided,* That such smaller tangerines are not

smaller than  $2\frac{1}{8}$  inches in diameter and: *Provided further*, That the quantity of such smaller tangerines does not exceed 50 percent of the quantity shipped in the applicable prior period as determined by the procedure specified in § 905.152.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674)

Dated: November 30, 1979, to become effective December 3, 1979.

D. S. Kuryloski,

*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 79-37342 Filed 12-4-79; 8:45 am]

BILLING CODE 3410-02-M

## 7 CFR Parts 905, 912, 913

### Florida Citrus Fruits; Expenses, Rates of Assessment, and Carryover of Unexpended Funds

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rules.

**SUMMARY:** These regulations authorize expenses and rates of assessment for the 1979-80 fiscal period, to be collected from handlers to support activities of the committees which locally administer Federal marketing orders covering Florida citrus fruits.

**DATES:** Effective August 1, 1979, through July 31, 1980.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, (202) 447-5975.

**SUPPLEMENTARY INFORMATION:** *Findings.* This document is issued under Marketing Order Nos. 905, 912 and 913, each as amended (7 CFR Parts 905, 912, and 913), respectively, regulating the handling of citrus fruits grown in Florida. These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the committees, established under these marketing orders, and upon other information. It is found that the expenses and rates of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), as these orders require that the rates of assessment for a particular fiscal period shall apply to all assessable fruit handled from the beginning of such period which began

August 1, 1979. To enable the committees to meet fiscal obligations which are now accruing, approval of the expenses and assessment rates is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rates at an open meeting of each committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comments. The regulation has not been classified significant under the USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, (202) 447-5975.

[Marketing Order 905]

### PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. Sections 905.218, 912.219 and 913.215 are revised to read as follows:

§ 905.218 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Citrus Administrative Committee during fiscal period August 1, 1979, through July 31, 1980, will amount to \$225,150.

(b) The rate of assessment for said period, payable by each handler in accordance with § 905.41, is fixed at 0.00275 per carton (¼ bushel) of fruit.

(c) Unexpended funds in excess of expenses incurred during fiscal period ended July 31, 1979, shall be carried over as a reserve in accordance with § 905.42.

[Marketing Order 912]

### PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

§ 912.219 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Indian River Grapefruit Committee during fiscal period August 1, 1979, through July 31, 1980, will amount to \$27,082.

(b) The rate of assessment for said period payable by each handler in accordance with § 912.41 is fixed at \$0.001 per carton (¼ bushel) of grapefruit.

[Marketing Order 913]

### PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

§ 913.215 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee during fiscal period August 1, 1979, through July 31, 1980, will amount to \$26,350.

(b) The rate of assessment for said period payable by each handler in accordance with § 913.31 is fixed at \$0.002 per standard packed carton (¼ bushel) of grapefruit.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: November 30, 1979.

D. S. Kuryloski,

*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 79-37343 Filed 12-4-79; 8:45 am]

BILLING CODE 3410-02-M

## 7 CFR Part 910

[Lemon Reg. 217, Amdt. 1]

### Lemons Grown in California and Arizona; Extension of Effective Period for Minimum Size Requirement

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This amendment continues through September 20, 1980, certain size requirements applicable to fresh shipments of lemons from California and Arizona. This action is necessary to provide orderly marketing in the interest of producers and consumers.

**EFFECTIVE DATE:** December 9, 1979.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, 202-447-5975.

**SUPPLEMENTARY INFORMATION:** *Findings.* Lemon Regulation 217 was published in the Federal Register on October 26, 1979 (44 FR 61578). On November 8, 1979 (44 FR 64839), a notice was published to extend the regulatory provisions of this regulation through September 20, 1980. The notice allowed interested persons until November 23, 1979, to submit written comments pertaining to the proposals. None were received.

This amendment is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the

recommendations and information submitted by the Lemon Administrative Committee, and upon other available information.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following amendment is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the Federal Register (5 U.S.C. 553) in that (1) shipments of lemons are currently in progress and this amendment should be applicable to all shipments during the season in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; and (4) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

This final rule has been reviewed under the USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant". An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 2050, telephone 202-447-5975.

The provisions of § 910.517 Lemon Regulation 217 (44 FR 61578) are hereby amended to read as follows:

**§ 910.517 Lemon Regulation 217.**

*Order.* (a) From December 9, 1979, through September 20, 1980, no handler shall handle any lemons grown in District 1, District 2, or District 3 which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the lemons in any type of container may measure smaller than 1.82 inches in diameter.

(b) As used in this section, "handle", "handler", "District 1", "District 2", and "District 3" each shall have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: November 30, 1979.

D. S. Kuryloski,  
*Deputy Director, Fruit and Vegetable  
Division, Agricultural Marketing Service.*

[FR Doc. 79-37341 Filed 12-4-79; 8:45 am]

BILLING CODE 3410-02-M

**7 CFR Part 987**

**Domestic Dates Produced or Packed in Riverside County, Calif.; Expenses of the California Date Administrative Committee and Rate of Assessment for the 1979-80 Crop Year**

**AGENCY:** Agricultural Marketing Service.

**ACTION:** Final rule.

**SUMMARY:** This regulation authorizes expenses and a rate of assessment for the 1979-80 crop year. The assessments are to be collected from handlers to support activities of the California Date Administrative Committee which locally administers the Federal marketing order covering domestic dates produced or packed in Riverside County, California.

**DATES:** Effective October 1, 1979, through September 30, 1980.

**FOR FURTHER INFORMATION CONTACT:** William J. Higgins, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447-5053.

**SUPPLEMENTARY INFORMATION:** *Findings.* Pursuant to Marketing Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in Riverside County, California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Committee, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking, and that good cause exists for not postponing the effective time until 30 days after publication in the Federal Register (5 U.S.C. 553), because the order requires that the rate of assessment for a particular crop year shall apply to all assessable dates from the beginning of such year which began October 1, 1979. To enable the Committee to meet marketing year obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and

views on the expenses and assessment rate at an open meeting of the Committee. To effectuate the declared purposes of the act, it is necessary to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication, without opportunity for further comments. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from William J. Higgins, (202) 447-5053.

**§ 987.324 Expenses and rate of assessment.**

(a) Expenses that are reasonable and likely to be incurred by the Committee during the 1979-80 marketing year, will amount to \$20,389.

(b) The rate of assessment for said year payable by each handler in accordance with § 987.72 is fixed at 7 cents per hundredweight on all assessable dates.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: November 30, 1979.

D. S. Kuryloski,  
*Deputy Director, Fruit and Vegetable  
Division.*

[FR Doc. 79-37344 Filed 12-4-79; 8:45 am]

BILLING CODE 3410-02-M

**DEPARTMENT OF ENERGY**

**Economic Regulatory Administration**

**10 CFR Part 515**

[Docket No. ERA-R-78-21]

**Powerplant and Industrial Fuel Use Act of 1978; Transitional Facilities; Amendment to Final Rule**

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Amendment to Final Rule.

**SUMMARY:** On October 12, 1979, the Economic Regulatory Administration issued a Final Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (44 FR 60690, October 19, 1979) for purposes of implementing the provisions of Titles II and III of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act"). Those regulations become effective on November 30, 1979.

ERA is hereby amending those regulations to clarify that if a contract for the construction or acquisition of a major fuel burning installation was not signed prior to November 9, 1978, the

installation is "new" and subject to the provisions of Title II of the Act. ERA also clarifies by this amendment that those installations for which a contract was signed prior to November 9, 1978 and which do not have a design capability to consume any fuel at a fuel heat input rate of 100 million Btu's per hour or greater, are automatically classified as "existing" and subject to the provisions of Title III of the Act.

In the Preamble to the Final Rule, ERA noted that the regulations had been amended "to clarify that the contract, which must have been signed by November 9, 1978 to establish eligibility to request classification, need not have been signed by the person requesting classification but may have been signed by a previous purchaser." ERA has further amended the regulations in order to clarify the applicability of the eligibility provisions with respect to rental boilers. For example, in cases where a rental boiler has been leased prior to the filing of a request for classification the lessee's eligibility to request classification may be based upon the lessor's (or owner's) contract for construction or acquisition of the unit. If more than one party has an interest in (i.e., owns, operates and/or controls) the boiler at the time the request is filed, ERA, in order to permit consideration of all relevant factors, will require that the request be filed on behalf of all such parties.

This amendment also revises the definition of "reconstruction" to conform to the definition set forth in the interim rule issued on May 8, 1979, implementing Titles II and III of FUA (44 FR 28530, May 15, 1979). For a detailed explanation of this revision see the May 15, 1979 Federal Register (44 FR 28532).

**EFFECTIVE DATE:** November 30, 1979.

**FOR FURTHER INFORMATION CONTACT:** Daniel T. Ruge, Regulations and Emergency Planning, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 2130, Washington, D.C. 20461 (202) 254-3365.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); E. O. 12009 (42 FR 46267, September 15, 1977))

In consideration of the foregoing, Part 515, Subchapter E, of Chapter II, Title 10 of the Code of Federal Regulations is amended as follows to be effective November 30, 1979.

Issued in Washington, D.C., November 29, 1979.

David J. Bardin,  
*Administrator, Economic Regulatory Administration.*

#### § 515.1 [Amended]

1. Section 515.1 is amended by adding a new sentence to the end of paragraph (b) to read as follows:

(b) \* \* \* or an adverse effect on electric system reliability. If you are otherwise eligible to request classification of a rental boiler under this part, your request must also be filed on behalf of all other persons, if any, who have an interest in (i.e., own, operate and/or control) the boiler at the time the request is filed, unless ERA has, for good cause shown, waived this requirement.

#### § 515.11 [Redesignated as § 515.12]

2. Section 515.11 is redesignated to § 515.12 and amended by deleting paragraph (b) and substituting the following in lieu thereof:

§ 515.12 Installations automatically considered to be "existing."

(a) \* \* \*

(b) Any installation for which a contract for construction or acquisition was signed prior to November 9, 1978, and which does not have a design capability to consume any fuel at a fuel heat input rate of 100 million Btu's per hour or greater, is automatically classified as "existing" and subject to the provisions of Title III of the Act.

3. Part 515 is amended by inserting a new § 515.11 to read as follows:

§ 515.11 Installations automatically considered to be "new."

If a contract for the construction or acquisition of the installation was not signed prior to November 9, 1978, the installation is automatically considered to be "new" and subject to the provisions of Title II of the Act.

4. Section 515.20 is amended in paragraph (c) by deleting paragraph (c)(26) and substituting the following in lieu thereof:

#### § 515.20 Definitions.

\* \* \* \* \*

(c) \* \* \*

(26) "Reconstruction" occurs when—

(i) For electric powerplants, your capital expenditure as defined by FERC on a cumulative basis for the current calendar year and preceding 2 calendar years equals or exceeds 50 percent of the expenditure for an equivalent replacement unit. Reconstruction shall not include expenditures for routine operation and maintenance. Reconstruction shall include

expenditures for items capitalized (i.e., not expensed) according to the FERC Uniform System of Accounts.

(ii) For MFB's, your capital expenditure on a cumulative basis for the current calendar year and preceding 2 calendar years equals or exceeds 50 percent of the expenditure for an equivalent replacement unit. Reconstruction shall not include expenditures for routine operation and maintenance. Reconstruction shall include expenditures for items capitalized (i.e., not expensed) according to IRS standards.

[FR Doc. 79-37392 Filed 12-4-79; 8:45 am]  
BILLING CODE 6450-01-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 14 CFR Part 1216

#### Policy on Environmental Quality and Control; Procedures for Implementing the National Environmental Policy Act (NEPA)

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule; correction.

**SUMMARY:** This correction to the NASA Policy on Environmental Quality and Control; Procedures for Implementing the National Environmental Policy Act (NEPA), 44 FR 44485-44491, July 30, 1979, and 44 FR 49650, August 24, 1979, adds a Heading which appeared in the Table of Contents but not in the Text.

**EFFECTIVE DATE:** July 30, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Margaret M. Herring, 202-755-3140, National Aeronautics and Space Administration, Washington, D.C. 20546. 14 CFR Part 1216 is amended by adding the Heading "Other Requirements" before § 1216.319.

Margaret M. Herring,

*Alternate Federal Register Liaison Officer.*

[FR Doc. 79-37314 Filed 12-4-79; 8:45 am]

BILLING CODE 7510-01-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 306

#### Octane Posting and Certification Rule; Coverage of "Producers"

**AGENCY:** Federal Trade Commission.

**ACTION:** Reaffirmation of final rule.

**SUMMARY:** On March 30, 1979, the Federal Trade Commission published in the Federal Register its rule governing the certification and posting of octane ratings (44 FR 19160). At that time, the



Commission had determined that, consistent with the congressional intent for comprehensive coverage in Title II of the Petroleum Marketing Practices Act, "producers" should be included among those covered by the Octane Posting and Certification Rule. "Producers" refers to that industry group that purchases component elements and combines them to produce automotive gasoline, rather than producing gasoline by refining it from crude oil.

Because of the limited number of comments received during the rulemaking proceeding on the subject of including producers under the rule, the Commission offered an opportunity for comments on its decision to include this industry group in the octane certification scheme. After reviewing the three comments received on this issue, the Commission has decided not to modify the provisions of the rule that affect producers.

**DATES:** Effective December 5, 1979.

**FOR FURTHER INFORMATION CONTACT:** James G. Mills, (202) 724-1491, Division of Energy and Product Information, Federal Trade Commission, Washington, D.C. 20580.

**SUPPLEMENTARY INFORMATION:** On March 30, 1979, under the authority of the Petroleum Marketing Practices Act, the Federal Trade Commission promulgated a rule requiring the certification and posting of the octane ratings of automotive gasoline. The rule describes uniform methods for certification by those who distribute gasoline and for posting by those who sell gasoline directly to consumers. The rule covers all members of the automotive gasoline industry, including refiners, importers, producers, distributors and retailers.

Producers are a small group within the industry. Although they are the originating sellers of automotive gasoline, they do not import or receive gasoline, nor do they refine it from crude oil. Rather, they purchase component parts and combine them to produce finished gasoline. In § 306.1 of its rule, the Commission covered producers along with all other members of the automotive gasoline industry who market gasoline for ultimate sale to consumers. This coverage is consistent with the congressional intent to provide octane purchasing information to all consumers.

During the rulemaking proceeding, however, only a limited number of comments were received on the subject of including producers under the rule. As a result, the Commission, at 44 FR 19172, offered the public an opportunity to comment on its decision to cover

producers. Comments were accepted until April 30, 1979.

In response to this notice, the Commission received three comments—one from an industry member and two from consumers. All three commenters expressed the view that the purpose of the Petroleum Marketing Practices Act could not be achieved unless gasoline producers, like all other industry members, were covered under the rule. In light of these comments, and in light of the fact that no commenters suggested that any problems might be raised by covering producers under the rule, the Commission has determined not to modify its earlier decision to cover gasoline producers under the rule.

By direction of the Commission,  
Carol M. Thomas,  
Secretary.

[FR Doc. 79-37303 Filed 12-4-79; 8:45 am]  
BILLING CODE 6750-01-M

## WATER RESOURCES COUNCIL

### 18 CFR Part 707

#### Compliance With the National Environmental Policy Act (NEPA)

**AGENCY:** U.S. Water Resources Council.

**ACTION:** Final rule for NEPA implementing procedures.

**SUMMARY:** On July 26, 1979, the Water Resources Council (WRC) published, at 44 FR 43750-43751, a proposed rule for compliance with the Council on Environmental Quality (CEQ) NEPA regulations. After review of the written comments received, the WRC, CEQ, and River Basin Commission (RBC) Chairman met on September 19, 1979, to discuss the proposed rule. The proposed rule was revised and adopted by the WRC at its November 13, 1979, meeting. This revision of the implementing procedures is published here as a final rule.

**EFFECTIVE DATE:** This NEPA rule is effective January 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Frank H. Thomas, Director, Policy Analysis Division, U.S. Water Resources Council, 2120 L Street NW., Washington, DC 20037, (202) 254-6453.

**SUPPLEMENTARY INFORMATION:** In 1971, the WRC issued Policy Statement No. 2 to comply with NEPA. As part of its further effort to comply with NEPA requirements, the WRC, in 1977, prepared draft Policy Statement No. 2 (revised) and draft Procedures for Preparation and Incorporation of Environmental Impact Statements in Reports. These procedures were

directed toward the preparation of Environmental Impact Statements for Level A framework studies and assessments, Level B regional or river basin plans, and comprehensive coordinated joint plans and special studies. The policy statement and procedures were published for comment in the Federal Register on September 23, 1977.

During the comment period, a decision was made to hold any action on the proposed procedures and policy statement until CEQ published its new NEPA regulations in final form. This delay would allow WRC to make its procedures compatible with the new CEQ regulations.

On November 29, 1978, CEQ published its final regulations for implementing the procedures provisions of NEPA (43 FR 55978-56007, 40 CFR Parts 1500-1508). A provision of these regulations requires that all Federal agencies issue NEPA implementing procedures before July 30, 1979.

At its meeting of July 18, 1979, the WRC approved a proposed NEPA rule which was published on July 26, 1979, at 44 FR 43750-43751. Interested persons were given until August 30, 1979, to submit comments.

#### Discussion of Comments

Comments were received from the Chairmen of the Great Lakes Basin Commission, Upper Mississippi River Basin Commission, New England River Basins Commission, and Missouri River Basin Commission; Director of the Division of Water Resources, Illinois Department of Transportation; Basin Commission Coordinator, Region V, U.S. Environmental Protection Agency; Director of the Office of Environmental Review, U.S. Environmental Protection Agency; and Deputy Secretary for Resources Management of the Pennsylvania Department of Environmental Resources.

On September 19, 1979, the RBC Chairmen, WRC, and CEQ met to discuss certain issues raised by the RBC comments on the proposed NEPA rule. Subsequently, additional comments were received from the New England River Basins Commission, Ohio River Basin Commission, Missouri River Basin Commission, Pacific Northwest River Basins Commission, and Great Lakes Basin Commission. The final NEPA rule reflects the discussion at the September 19, 1979, meeting on the responsibilities of the RBC and the WRC in NEPA compliance and on the designation of the RBC Chairmen as the responsible Federal official for RBC plans.

Issues raised by several of the comments are:

(1) *Relation of the Principles and Standards for Planning Water and Related Land Resources (P&S) to NEPA.* Phase II of the P&S revision and manual development for the Environmental Quality National Objective, scheduled for completion by June 1980, will integrate NEPA and P&S requirements. This NEPA rule will be revised to reflect the P&S/NEPA integration at that time.

(2) *Approval of RBC plans as a "Federal action."* The approval of RBC plans is a function of the joint State/Federal commission. The RBC Chairman and Federal members of the commission participate in the decision to approve the plan and the RBC Chairman then submits the approved plan to the WRC. In order to integrate the NEPA process with this planning and decisionmaking process, RBC approval of comprehensive, coordinated joint plans (CCJP's) or elements thereof, is considered to be the "Federal action" by reason of its Federal membership and for the other reasons cited under Section 707.4(b), and the RBC Chairman is considered to be the "responsible Federal official."

(3) *Need for Environmental Impact Statements for comprehensive, coordinated joint plans (regional water resources management plans, or elements thereof, and Level B plans.* The analysis of impacts and alternatives contained in an EIS is needed for consideration by the Federal participants and RBC Chairmen, as well as by the non-Federal participants, before the plan is adopted by the Commission. Normally, EIS's will be prepared before such an action as part of the plan preparation process. Information in these same EIS's will be used by the WRC in its preparation of views, comments, and recommendations to accompany the plans when they are transmitted to the President.

(4) *Relation of this rule to the September 23, 1977, proposed procedures and policy and WRC Policy Statement No. 2.* In October 1979, a WRC/RBC task force began developing procedures for Federal participants in the preparation of comprehensive regional or river basin plans. The detailed procedural guidance in the September 23, 1977 proposal will be updated in conjunction with the task force effort and used to revise this NEPA rule when available. Applicable policy guidance from the 1977 proposal is included in this NEPA rule which supersedes WRC Policy Statement No. 2, Environmental Statements—Framework Studies and Assessments and Regional or River Basin Plans.

(5) *Annual Priorities Reports and the National Water Assessment.* These have been added to the chart in § 707.6.

(6) *Tiering.* A section on tiering has been added to help clarify the level of detail required for various classes of action.

(7) *Scoping.* A section on scoping has been added to help identify and determine the extent of the significant issues related to a proposed action.

Title 18 of the Code of Federal Regulations is amended by adding the following new Part 707:

## **PART 707—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)**

### **Subpart A—General**

#### **Sec.**

707.1 Background.

707.2 Purpose.

707.3 Applicability.

707.4 Definitions.

707.5 Policy.

### **Subpart B—Water Resources Council Implementing Procedures**

707.6 Early involvement in private, State, local, and other non-Federal activities requiring Federal action.

707.7 Ensuring that environmental documents are actually considered in agency decisionmaking.

707.8 Typical classes of action requiring similar treatment under NEPA.

707.9 Tiering.

707.10 Scoping.

707.11 Environmental information.

Authority: National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); EO 11991. 42 FR 26967. 3 CFR 1977 Compl. p. 123.

### **Subpart A—General**

#### **§ 707.1 Background.**

(a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.) establishes national policies and goals for the protection and enhancement of the environment. Section 102(2) of NEPA contains certain policy statements and procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, amended E.O. 11514 and directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR Parts 1500–1509) on November 29, 1978, which are binding

on all Federal agencies as of July 30, 1979. Section 11507.3(a) of CEQ regulations provides that each Federal agency shall as necessary adopt implementing procedures to supplement the regulations. Section 1507.3(b) of the CEQ NEPA regulations identifies those sections of the regulations which must be addressed in agency procedures.

#### **§ 707.2 Purpose.**

The purpose of this NEPA rule is to establish Water Resources Council (WRC) policy and procedures which supplement the CEQ NEPA regulations by making them more specifically applicable to our activities and which implement subsections 1507.3 (a) and (b) of the CEQ NEPA regulations. This rule will be revised to incorporate detailed procedures integrating NEPA and the Principles and Standards (P&S) and applicable parts of the procedures for Federal participants in the preparation of comprehensive regional or river basin plans when these procedures are developed. This NEPA rule must be used in conjunction with the CEQ NEPA regulations. Compliance with both the CEQ NEPA regulations and this NEPA rule is required. Information in the CEQ NEPA regulations generally is not repeated here to avoid needless duplication. This NEPA rule supersedes WRC Policy Statement No. 2—Environmental Statements-Framework Studies and Assessments and Regional or River Basin Plans.

#### **§ 707.3 Applicability.**

This NEPA rule applies to the WRC as an independent executive agency and to Title II river basin commissions (RBC's) and other entities (such as interagency committees) preparing studies and plans for WRC review and transmittal to the President. Although Title III State planning grants do not normally require environmental assessments or statements (Section 707.8(3)), the WRC will encourage States receiving grants to give appropriate consideration to the environmental effects of their proposed actions and to incorporate suitable environmental conditions, to the extent permitted by State law. The preamble to the WRC Title III guidelines will reflect this policy.

#### **§ 707.4 Definitions.**

(a) *Responsible Federal Official (RFO).* The "Responsible Federal Official (RFO)" is the official of the Federal Government designated by this rule who shall be responsible for the implementation of NEPA, including regulations issued by the CEQ (40 CFR, Parts 1500–1509) and the rule. Of particular importance, the RFO

determines the need for an Environmental Assessment or Environmental Impact Statement (EIS) in accordance with § 707.8 (2) and (b), and if an EIS is required, files the draft and final EIS, makes the Record of Decision and assures appropriate public involvement in accordance with 40 CFR 1506.6. The Chairman of the RBC's are the RFO's for the purpose of ensuring compliance with the provisions of NEPA and the P&S for those activities which are funded in whole or in part through the WRC and carried out by the RBC's, such as framework studies, special studies, comprehensive coordinated joint plans, regional or river basin (Level B) plans and revisions thereof. The Chairman of the WRC, or his designee, is the RFO for complying with the provisions of NEPA and the P&S for those framework studies, regional or river basin plans, comprehensive coordinated joint plans, and special studies which are funded by the WRC and carried out by WRC interagency committees and WRC coordinating committees; principles, standards and procedures for planning water and related land resources; rules and regulations of the WRC, and other activities of the WRC.

(b) *Major Federal Action.* "Major Federal action" as defined in the CEQ NEPA regulations (40 CFR 1508.18) includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Such actions include WRC interagency committee, and WRC coordinating committee adoption, approval or submittal of plans for water and related land resources. For the purpose of this rule, RBC adoption, approval or submittal of a plan for water and related land resources is considered a major Federal action by virtue of the scope and significant environmental consequences of such actions, the participation of Federal officials in these RBC actions, and the WRC requirements for Federal agency consistency with approved regional water resource management plans (WRC Policy Statement No. 4—The Utilization of Comprehensive Regional Water Resource Management Plans).

#### § 707.5 Policy.

(a) *General.* The WRC and the RBC's administer certain programs that must comply with both NEPA and the P&S. Generally, the environmental analysis done during the development of the Environmental Quality (EQ) account under the P&S partially overlaps the analysis required in an EIS, presenting an opportunity for integration. The

requirements of NEPA and the P&S will be carried out by integrating the two processes to the fullest extent practicable and by combining to the fullest extent practicable the Environmental Assessment or, when required, Environmental Impact Statement, with each study or plan into a single document that will comply fully with the requirements of both processes, as provided by the CEQ NEPA regulations (40 CFR 1502.10 and 1506.4).

(b) *Public Participation.* For each environmental assessment and impact statement, the appropriate RFO will establish a specific program and schedule for public participation of all interested parties in the NEPA process, and shall otherwise provide for public involvement in accordance with the CEQ NEPA regulations (40 CFR 1506.6).

(c) *Environmental Impact Statements.* Environmental Impact Statements (EIS's) as required under Section 102(2)(C) of NEPA will be prepared by river basin commissions, interagency committee, or WRC coordinating committees for comprehensive coordinated joint plans and regional or river basin (Level B) plans, or revisions thereof. The Environmental Impact Statement will be prepared concurrently with the preparation of the study or plan. The statement will reflect the level of planning involved and will address those environmental considerations and alternatives relevant to decisionmaking at that level (see § 707.9—Tiering). Review and comment on the draft study or plan and the incorporated draft environmental impact statement will be performed simultaneously, and the final combined report will incorporate and discuss the comments received on the draft.

#### Subpart B—Water Resources Council Implementing Procedures

§ 707.6 Early Involvement In private, State, local, and other non-Federal activities requiring Federal action.

(a) Section 1501.2(d) of the CEQ NEPA regulations requires Federal agencies to provide for early involvement in activities which, while planned by private or other non-Federal entities, requires some subsequent form of Federal approval or action to which NEPA applies. Such activities for which early involvement is appropriate include those private, local, State, or regional water and related land resources plans, projects or programs which should be included in a regional water resources management plan or Level B plan, since the plans normally required an EIS or assessment as provided in § 707.8(a) of this NEPA rule.

(b) To facilitate the implementation of 40 CFR 1501.2(d), the appropriate RFO shall publish and distribute in the region or basin in which a comprehensive or Level B study is conducted, guidelines for non-Federal entities of the types of plans, projects, and programs which shall be included in such comprehensive or Level B plan. The RFO shall advise non-Federal entities on the scope and level of environmental information and analysis needed for environmental documents.

§ 707.7 Ensuring that environmental documents are actually considered in agency decisionmaking.

(a) Section 1505.1 of the NEPA regulations contains requirements to ensure adequate consideration of the environmental documents in agency decisionmaking. To implement these requirements, the RFO shall:

(1) Consider relevant environmental documents in evaluating actions proposed in plans and studies.

(2) Make relevant environmental documents, comments, and responses part of the record in any formal rulemaking or adjudicatory proceedings.

(3) Ensure that relevant environmental documents, comments and responses accompany the proposed actions through existing review processes.

(4) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating proposals for agency action.

(5) Where an EIS has been prepared, consider the specific alternatives analyzed in the EIS when evaluating the proposal which is the subject of the EIS.

(b) The NEPA process begins at the earliest possible stage of the planning process and is completed when the RFO makes a finding of significant impact or a record of decision. In cases where the Chairman of a River Basin Commission, or regional Federal official has been designated as the RFO, and a plan or report is submitted to WRC for review and comment after completion of the NEPA process, the environmental documents incorporated into such plans or reports, or submitted with them, shall be fully considered by WRC when it prepares its views, comments, and recommendations for transmittal to the President and Congress. The RFO shall include the Findings of No Significant Impact, or the Record of Decision, with the documents submitted to WRC for review."

§ 707.8 Typical classes of action requiring similar treatment under NEPA.

(a) Section 1507.3(b)(2) of the CEQ NEPA regulations in conjunction with

§ 1508.4 requires agencies to establish three typical classes of action for similar treatment under NEPA. These typical classes of actions are set forth below:

(1) Actions normally requiring EIS's:  
(i) Adoption, approval or submittal of regional water resources management plans (comprehensive, coordinated, joint plans or elements thereof).

(ii) Adoption, approval or submittal of Level B plans.

(2) Actions normally requiring assessments but not necessarily EIS's:

(i) Establishment and implementing guidance (including significant changes) in principles, standards, and procedures for planning water and related land resources.

(ii) Adoption, approval or submittal of framework studies and special studies which include recommendations for future actions.

(iii) Any action not in paragraph (a) (1) or (3) of this section.

(3) Actions normally not requiring assessments or EIS's (categorical exclusions):

(i) Approval of Title III State planning grants.

(ii) Adoption, approval or transmittal of priorities reports.

(iii) Preparation of the National Water Assessment.

(iv) Recommendations to the President with the respect to Federal policies and programs, except for transmittal of plans described in paragraphs (a) (1) or (2) of this section for which the original EIS or Environmental Assessment (EA) will be transmitted with the plan. A second EIS is not required.

(v) Framework studies and assessments and special studies which do not include recommendations for future actions.

(b) Where the presence of extraordinary circumstances indicates that an action normally excluded may have a significant environmental effect, the appropriate RFO shall independently determine whether an EIS or an environmental assessment is required.

#### § 707.9 Tiering.

In accordance with the CEQ NEPA regulations 1502.4(d) and 1508.28(a), this NEPA rule emphasizes the use of tiering to relate broad and narrow actions. The level of detail in EIS's and EA's prepared by RBC's, WRC interagency committees or WRC coordinating committees will reflect the level of detail in the plans, particularly the comprehensive and policy nature of comprehensive, coordinated, joint plans or elements or revisions thereof. These EIS's are not intended to substitute for

individual statements on individual projects as more detailed planning and analysis will be required for major Federal actions proposed in these plans. The "policy" or "overview" EIS should serve as the framework and introduction for a more site-specific project EIS developed by the implementing Federal agency. Environmental impact statements for regional water resource management and Level B plans will generally address the items in the recommended format (40 CFR 1502.10) on the basis of water and related land resources of an entire region or river basin. This is the level of consideration at which the environmental issues and considerations are most relevant to decisionmaking. They may also address groups of interrelated or individual plan elements where these involve significant environmental considerations.

#### § 707.10 Scoping.

Scoping will be used to determine the extent of issues to be addressed by the EIS and to identify significant issues related to the proposed action. Scoping will be conducted as described by the CEQ NEPA regulations, §§ 1501.7 and 1508.25.

#### § 707.11 Environmental information.

Interested persons may contact the Director, U.S. Water Resources Council, 2120 L Street, NW., Washington, DC 20037, for information regarding the Council's compliance with NEPA.

Dated: November 30 1979.

Leo M. Eisel,  
Director.

[FR Doc. 79-37390 Filed 12-4-79; 8:45 am]  
BILLING CODE 8410-01-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 48

[T.D. 7658]

#### Exemption From Motor Fuels Excise Taxes for Certain Alcohol Fuels

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document provides final regulations relating to the exemption from motor fuels excise taxes for certain alcohol fuels. Changes in the applicable tax law were made by the Energy Tax Act of 1978. These regulations affect certain producers and sellers of motor fuels and provide them with the guidance needed to comply with the law.

**EFFECTIVE DATE:** These regulations apply generally to sales after December 31, 1978, and prior to October 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Robert H. Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Attention: CC:LR:T, 202-566-3287, not a toll-free call.

#### SUPPLEMENTARY INFORMATION:

##### Background

On June 19, 1979, the Federal Register published proposed amendments to the Excise Tax Regulations (26 CFR Part 138) under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954 (Code) (44 FR 35247). The amendments were proposed to conform the regulations to section 221 of the Energy Tax Act of 1978 (Pub. L. 95-618, 92 Stat. 3185). No public hearing was held.

Two written comments were received. One of the comments dealt with the lack of a refund or credit when taxpaid gasoline is sold for use in producing gasohol. Since the Code does not provide for a refund or credit in such a situation, no change in the regulation could be made. The second comment contained six recommendations relating to the proposed rules for qualifying as a producer of gasohol and the recordkeeping requirements. After consideration of all comments regarding the proposed regulations, no substantive changes have been made to the proposed regulations.

The effectiveness of these regulations after issuance will be evaluated on the basis of comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

##### Drafting Information

The principal author of this regulation is Robert H. Waltuch of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

##### Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 48 and 138 are amended by adopting, subject to the following changes, the regulations proposed in the notice of proposed rulemaking published in the Federal Register on June 19, 1979 (44 FR 35247):

Paragraph 1. Section 138.4041 (k)-1 as set forth in the notice of proposed rulemaking is amended as follows:

§ 138.4041 (k)-1 Redesignated as  
§ 48.4041-14

(a) Section 138.4041 (k)-1 is redesignated as § 48.4041-14 with references to part 138 of Title 26 changed to Part 48 of Title 26, and is inserted immediately after § 48.4041-13.

(b) Section 48.4041-14 as redesignated by this document is amended by inserting the paragraph heading "(a) *In general.*" immediately before the first sentence.

(c) Paragraph (a) as designated by this document is amended by striking out the cross reference "See, § 138.4081(c)-1" and inserting "See, § 48.4081-2" in its place.

(d) New paragraphs (b) and (c) are added to read as set forth below.

§ 48.4041-14 Fuels containing alcohol.

\* \* \* \* \*

(b) *Refunds relating to diesel, special motor, and noncommercial aviation fuels.* If a producer (as defined in paragraph (b) of § 48.4081-2) buys diesel, special motor, or noncommercial aviation fuels tax paid and uses the fuel in producing exempt gasohol, then the refund provisions in section 6427 and the regulations under that section apply.

(c) *Effective date.* Section 4041(k) (relating to fuels other than gasoline) applies to sales or use after December 31, 1978, and before October 1, 1984. If the special fuels have been blended into gasohol and have been put into the tank of a vehicle prior to January 1, 1979, the fuels are considered used prior to that date.

Par. 2. Section 138.4081(c)-1 is amended as follows:

§ 138.4081 Redesignated as § 48.4081-2

(a) Section 138.4081(c)-1 is redesignated as § 48.4081-2 with all references to Part 138 of Title 26 changed to Part 48 of Title 26, and is inserted immediately after § 48.4081-1.

(b) Paragraph (f)(3) is deleted.

(c) Paragraph (i) is amended by deleting the third and fourth sentences.

This Treasury decision is issued under the authority contained in sections 4041(k), 4081(c) (92 Stat. 3185, 26 U.S.C. 4041 & 4081) and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: November 21, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

Sections 48.4041-14 and 48.4081-2 are added to read as follows:

§ 48.4041-14 Fuels containing alcohol.

(a) *In general.* Under section 4041(k) the tax imposed under section 4041 does not apply to the sale or use of any liquid fuel at least 10 percent of which consists

of alcohol. Except where a different rule has been expressly provided, purchasers and sellers of liquids under section 4041(k) are subject to the same requirements and limitations as are imposed on purchasers and sellers of gasoline under section 4081(c). See, § 48.4081-2.

(b) *Refunds relating to diesel, special motor, and noncommercial aviation fuels.* If a producer (as defined in paragraph (b) of § 48.4081-2) buys diesel, special motor, or noncommercial aviation fuels tax paid and uses the fuel in producing exempt gasohol, then the refund provisions in section 6427 and the regulations under that section apply.

(c) *Effective date.* Section 4041(k) (relating to fuels other than gasoline) applies to sales or use after December 31, 1978, and before October 1, 1984. Where the special fuels have been blended into gasohol and have been put into the tank of a vehicle prior to January 1, 1979, the fuels are considered used prior to that date.

§ 48.4081-2 Gasoline mixed with alcohol.

(a) *In general.* Under section 4081(c) the tax imposed by section 4081 on the sale of gasoline does not apply to the sale of qualifying gasohol or to the sale of gasoline for the purpose of producing qualifying gasohol if the requirements of this section are met. Qualifying gasohol is referred to in this section as gasohol. Gasohol is a blend of gasoline and alcohol (whether domestic or imported alcohol) in a mixture at least 10 percent of which contains alcohol made from any product other than petroleum, natural gas, or coal. In determining whether the 10 percent alcohol requirement has been met, alcohol that is 95 or more percent pure (190 degrees or more of proof) will be considered pure if no part of the impurity is gasoline. To the extent that the alcohol is less than 95 percent pure or to the extent that any part of the impurity is gasoline, a corresponding increase in the amount of alcohol is required to meet the 10 percent requirement. For certain requirements imposed on producers of alcohol (ethanol) under chapter 51 of the Code relating to distilled spirits, see 27 CFR Part 201. For certain requirements imposed on purchasers of specially denatured alcohol (ethanol), see 27 CFR Part 211.

(b) *Sale of gasoline to produce gasohol.* Under section 4081(c) the sale of gasoline for the purpose of producing gasohol is not exempt unless the sale is in bulk quantities for delivery into a bulk storage tank of a producer who meets the requirements of this section. For purposes of section 4081(c), the term "producer" means any person who in

the ordinary course of its trade or business regularly buys gasoline and alcohol in bulk quantities for blending for use in its trade or business or for resale. Thus, the mere purchase of gasoline for blending into gasohol does not qualify a person as a producer. A person is not a producer for purposes of section 4082 merely because such a person is a producer of gasohol as defined in this section. Thus, the provisions of section 4083 (relating to certain exempt sales to producers) do not necessarily apply.

(c) *Requirement for gasohol producers purchasing tax free—(1) Certificate of Registry.* A person qualifying as a producer who wishes to purchase gasoline tax free for the purpose of producing gasohol must be registered with the district director for the district in which its principal place of business is located, unless exempt from registration requirements under section 4222(b). A person registers, if not previously registered, by completing and filing Form 637, *Registration for Tax-Free Transactions Under Chapter 32 of the Internal Revenue Code*, in duplicate, in accordance with its instructions. Copies of Form 637 may be obtained from any district director. Upon approval a registry number is assigned and a Certificate of Registry is issued. At the time of purchase, a registered producer must furnish to the seller in writing its registry number together with its signed statement of the exempt purpose of the purchase. Persons not required to be registered under section 4222(b) may purchase tax free by following the procedure that applies to them in the case of other tax-free sales. See § 48.4222(b)-1.

(2) *Revocation or suspension of registration.* The district director is authorized to revoke or temporarily suspend, upon written notice, the registration of any person and the right of such a person to purchase gasoline tax free under section 4081(c) in any case in which the district director finds that—

(i) The registrant is not a bona fide producer of gasohol;

(ii) The registrant failed to comply with the requirements of paragraph (c)(1) of this section, relating to the evidence required to support a tax-free sale;

(iii) The registrant has used its registration to avoid the payment of any tax imposed by chapter 31 or 32 of the Code, or to postpone or interfere in any manner with the collection of such a tax.

(iv) The revocation or suspension is necessary to protect the revenue; or



(v) The registrant is for some other reason not eligible under this section to retain a Certificate of Registry.

The revocation or suspension of registration is in addition to any other penalty that may apply under the law for any act or failure to act.

(d) *Seller not relieved of liability in certain cases.* The seller of the gasoline remains liable for the tax imposed under section 4081 if at the time of the sale the seller of the gasoline has reason to believe that all the gasoline sold by it to the purchaser is not intended for blending into gasohol or that the purchaser has failed to register or that its registration has been revoked or suspended.

(e) *Special rules—(1) Limitation on tax-free sales.* The exemption from the excise tax under section 4081(c) applies to the sale of gasoline only for use in producing gasohol. Therefore, unless the sale is exempt under another provision of the Code, the seller of the gasoline may sell tax free only that portion of the gasoline that is intended for use in producing gasohol.

(2) *Credit sales to exempt users.* Under section 6416 of the Code, the producer of gasoline is entitled to a refund or credit if tax-paid gasoline is ultimately sold to tax-exempt users in a case to which section 6416(b)(2) (A), (B), (C), (D), or (H) applies. To determine the amount of overpayment, the producer of gasoline, among other things must be able to establish the amount of tax-paid gasoline that was sold by the ultimate vendor to tax-exempt users. Therefore, if the ultimate vendor sells both tax-paid gasoline and gasohol on credit and the sales of the two kinds of fuels are not clearly distinguished, the producer of the gasoline will not be entitled to a credit or refund with respect to the tax-paid gasoline if it can not establish the amount of the tax-paid gasoline sold by the ultimate vendor to tax-exempt users.

(f) *Refunds and credits—(1) Gasoline.* Except as provided in paragraph (f)(2) of this section, there is no provision in the Code that allows a refund or credit with respect to tax-paid gasoline used in producing gasohol.

(2) *Mixture of gasoline and alcohol containing more than 40 percent alcohol.* If a purchaser buys gasoline tax paid for blending a mixture of gasoline and alcohol containing more than 40 percent alcohol, that mixture will be treated as a special fuel under section 4041 and the refund provisions in section 6416 and the regulations under that section apply.

(g) *Later separation and failure to blend—(1) Gasoline.* If any person fails to blend gasoline purchased tax free

under section 4081(c) with alcohol to make gasohol, or later separates the tax-free gasoline from the alcohol, that person is treated as a producer of gasoline as defined in section 4082 and the provisions of section 4081 relating to the sale of gasoline by a producer apply: If gasoline has been purchased tax free for the purpose of producing gasohol in excess of the amount of gasoline that the purchaser is able to establish has actually been used to produce gasohol by the records required under paragraph (h)(3) of this section, the purchaser is treated as having failed to blend the excess gasoline, and the provisions of this paragraph apply. In such a case, any of the excess gasoline that is not in the purchaser's possession is treated as having been disposed of by sale or by a use that is treated as a sale under section 4082(c). See section 7201 for criminal penalties relating to a willful attempt to evade or defeat tax, and section 6651 and 6653 for additions to tax to failure to file a return or pay tax and for negligence and fraud.

(2) *Diesel, special and noncommercial aviation fuels.* If any person separates the diesel, special, or noncommercial aviation fuel purchased tax free under section 4041(k) from the alcohol, the separation is treated as a sale of the fuel for purposes of section 4041.

(h) *Information; records—(1) Information to be furnished to purchaser.* A producer of gasoline who sells gasoline tax free under section 4081(c) shall indicate to the purchaser that the purchaser is obtaining gasoline tax free for making gasohol. The producer may transmit this information by any convenient means, such as coding of sales invoices, provided, that the information is presented with sufficient particularity so that the purchaser is informed that he has obtained the gasoline tax free and the purchaser can compute and remit the tax due if the gasoline is diverted to a taxable use.

(2) *Records of seller.* Every person who, but for this section would be liable for the excise tax on the sale of the gasoline, shall maintain in its records—

- (i) The identity of the purchaser,
- (ii) The written statement required to be given to the seller under paragraph (c) of this section, and
- (iii) The quantity of gasoline sold tax free to each purchaser.

(3) *Records of producer of gasohol.* Any person purchasing gasoline tax free for the purpose of producing gasohol must maintain sufficient records to establish that the gasoline purchased tax free for the purpose of producing gasohol has actually been used for that purpose. Such a person must maintain

records sufficient to establish to the satisfaction of the district director that alcohol, of the requisite kind, has actually been obtained by it in a quantity sufficient to have enabled it to have produced the full amount of gasohol that could have been produced from the quantity of gasoline it had acquired tax free for the purpose of producing gasohol.

(i) *Effective dates.* Section 4081(c) (relating to gasoline mixed with alcohol) applies to sales after December 31, 1978, and before October 1, 1984. Gasoline sold prior to January 1, 1979, and which is blended into gasohol after that date is not exempt from the tax under section 4081(c) of the Code. The recordkeeping requirements under this section apply to sales or uses that occur after July 19, 1979.

[FR Doc. 79-37313 Filed 12-4-79; 8:45 am]

BILLING CODE 4830-01-M

## DEPARTMENT OF JUSTICE

### Office of the Attorney General

#### 28 CFR Part 0

[Order No. 864-79]

#### Organization of the Department of Justice; Amending Authority to Take Final Action in Authorizing Travel Advances Pursuant to 5 U.S.C. 5705

AGENCY: Department of Justice.

ACTION: Final rule.

**SUMMARY:** This order amends the authority delegated to the Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, Inc., the Commissioner of the Immigration and Naturalization Service, the Administrator of the Drug Enforcement Administration, the Director of the United States Marshals Service, and the Administrator of the Law Enforcement Assistance Administration to authorize travel advances pursuant to 5 U.S.C. 5705. This amendment is issued to clarify the delegation of authority to approve travel advances and to ensure that all travel advances are made in accordance with regulations issued by the General Services Administration and the Assistant Attorney General for Administration.

**EFFECTIVE DATE:** Upon Issuance.

**FOR FURTHER INFORMATION CALL:** Gilbert Leigh, Director, Finance Management Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530 (202-633-2728).

By virtue of the authority vested in me by 28 U.S.C. 509 and 510, and 5 U.S.C. 301 and 5705, § 0.142(c) of Subpart X of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

## PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

### Subpart X—Authorization With Respect to Personnel and Certain

#### § 0.142 [Amended]

(c) Authorizing travel advances pursuant to 5 U.S.C. 5705 in accordance with the regulations prescribed by the Administrator of General Services and the Assistant Attorney General for Administration.

Dated: November 23, 1979.

Benjamin R. Civiletti,  
Attorney General.

[FR Doc. 79-37384 Filed 12-4-79; 8:45 am]  
BILLING CODE 4410-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Mines

#### 30 CFR Part 601

### Revised Fee Schedule and Amendment

**AGENCY:** Department of the Interior, Bureau of Mines.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a complete new Schedule of Prices and Charges associated with the sale of helium. The new schedule reflects increases in the cost of labor and materials that have occurred since the current schedule became effective on January 1, 1978, particularly since that schedule was based on 1977 costs. Also, subparagraph 601.10(c)(1) is amended to increase the charge for failure to return standard-type cylinders on demand or for damage due to mistreatment.

**EFFECTIVE DATE:** The effective date for the new Schedule of Prices and Charges is February 1, 1980. This means of establishing the effective date facilitates implementation of the new schedule in accordance with the terms of existing contracts.

**FOR FURTHER INFORMATION CONTACT:** Ray D. Munnerlyn, Director, Division of Helium Operations, Room 901, Columbia Plaza Office Building, 2401 E St., NW., Washington, D.C. 20241, Phone A/C 202-634-4734.

**SUPPLEMENTARY INFORMATION:** On page 55210 of the Federal Register of Tuesday, September 25, 1979, there was

published a notice of proposed amendment of Chapter VI, Subchapter A, Part 601 of Title 30 Code of Federal Regulations to replace the existing Schedule of Prices and Charges which became effective January 1, 1978. Interested persons were given 30 days in which to submit comments. No comments were received.

After publication of the Proposed Revised Schedule of Prices and Charges on September 25, 1979, it was discovered that there is a conflict between the Schedule and subparagraph 601.10(c)(1). The Proposed Schedule, under the item, "Use of Standard-Type Cylinder," requires a \$90 deposit in cash, or bond, or insurance to guarantee the return of each cylinder. However, subparagraph 601.10(c)(1) provides the following: "(1) if any standard-type cylinder supplied by the Bureau is not returned within 90 days after receipt of notice that its return is required, . . . the purchaser shall be charged and shall pay to the Bureau, or cause to be paid to the Bureau, the replacement cost of the cylinder and its parts, including the cost of assembly, as determined by the Bureau which in no event shall be less than \$30 nor more than \$40." These dollar limits, established in the early 1960's were based on the cost of cylinders at that time. The current cost is approximately \$120. Therefore, the Final Rulemaking document includes an item amending the phrase, ". . . which in no event shall be less than \$30 nor more than \$40," to read, "which in no event shall be less than \$90 nor more than \$120."

The primary author of this document is Billy J. King, Chief, Branch of Administration, Helium Field Operations, Box H 4372 Herring Plaza, Amarillo, TX 79101, telephone FTS: 734-2608; or, A/C 806-376-2608.

The Department of the Interior has determined that this document is not a significant rule and does not require regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, pursuant to authority provided by the Helium Act of 1960, 50 U.S.C. 167, et seq., 30 CFR 601.10(c)(1) and the appendix to 30 CFR Part 601 are amended as set forth below.

Dated: November 29, 1979.

Joan M. Davenport

*Assistant Secretary of the Interior.*

## PART 601—SALES OF HELIUM BY AND RENTAL OF CONTAINERS FROM BUREAU OF MINES

### § 601.10 Shipping containers.

\* \* \* \* \*

(c) Provisions applicable to cylinders supplied by the Bureau. (1) If any standard-type cylinder supplied by the Bureau is not returned within 90 days after receipt of notice that its return is required, or is rendered unserviceable by defects or failure to pass a quinquennial hydrostatic test as a result of mistreatment or damage beyond the effects of ordinary wear, tear, and age occurring during the period commencing with the delivery or shipment of such cylinder to the purchaser and ending with the return of such cylinder to the Bureau, the purchaser shall be charged and shall pay to the Bureau, or cause to be paid to the Bureau, the replacement cost of the cylinder and its parts, including costs of assembly, as determined by the Bureau which in no event shall be less than \$90 nor more than \$120. The entry of such charge on account of any cylinder not returned shall terminate the charge for the use thereof as of the end of the current month for which charge is made pursuant to § 601.3(d), but if said cylinder is subsequently returned in serviceable condition, the Bureau shall credit or refund to the purchaser, the amount charged for the cylinder less one and one-half times the rental charge not to exceed the amount charged for the lost cylinder for the period from the date when the charge was terminated to the date of the return of the cylinder in repayment to the Bureau for extra costs incurred.

\* \* \* \* \*

## APPENDIX

### Schedule of Prices and Charges

<b>Helium Sale Price:</b>	
Each unit f.o.b. helium plants	\$35.00
Minimum order each contract (units)	20
<b>Initial cash advance:</b>	
Contracts for less than 500 units	(1)
Contracts for 500 units or more	17,500.00
<b>Filing Charges:</b>	
Standard-type cylinders (each)	4.80
Tank cars (each)	160.00
Semitrailers (each)	65.60
<b>Service Charges:</b>	
Furnish new cylinder cap (each)	3.02
Furnish new cylinder valve and install (each)	5.85
Hydrostatic test cylinder and indent new test date (each)	5.65
Paint cylinders (each)	5.40
Paint cylinder caps (each)	0.50
Replace safeties (each)	2.05
Reset cylinder valves (each)	1.95
Rework cylinder valves (each)	4.40
Wash and dry cylinder, reset valve (each)	2.60
<b>Use of Tank Cars:</b>	
Round trip per mile charge between helium plant and destination and	0.11
<b>Time at destination:</b>	
First 30 days (per day)	35.00
Second 30 days (per day)	25.00
Over 60 days (per day)	20.00
<b>Initial cash advance for use of each tank car:</b>	
Contracts specifying a definite number of round trips (each round trip)	1,000.00
Contracts specifying an indefinite number of round trips	4,000.00
<b>Cash, bond, or insurance to guarantee return of containers:</b>	

1 tank car .....	100,000.00
2 or more but less than 5 tank cars .....	200,000.00
Each tank car in excess of 4 .....	20,000.00
<b>Use of Semitrailer:</b>	
Time in customer service:	
First 30 days (per day) .....	26.15
Second 30 days (per day) .....	46.00
Over 60 days (per day) .....	63.00
Initial cash advance for use of each semitrailer:	
Contracts specifying a definite number of round trips (each round trip) .....	250.00
Contracts specifying an indefinite number of round trips .....	750.00
Cash, bond, or insurance to guarantee return or container:	
1 trailer .....	40,000.00
2 or more but less than 5 trailers .....	100,000.00
Each trailer in excess of 4 .....	10,000.00
<b>Use of Standard-Type Cylinder:</b>	
Each cylinder per month .....	1.40
Minimum each contract .....	140.00
Initial cash advance for use of cylinder:	
Contracts for 100 cylinders or less .....	420.00
Contracts for more than 100 cylinders (each) .....	4.20
Cash, bond, or insurance to guarantee return of cylinder (each) .....	90.00
<b>Additional Charge for Failing to Return Containers with Minimum Residual Pressure of 15 psig of Uncontaminated Grade-A Helium:</b>	
Standard-type cylinder, evacuating and purge-each .....	2.15
Tube trailer, tube banks, or tubes manifolded:	
Individual tube capacity 1,800 cf or less:	
Purge (each tube) .....	1.00
Evacuate (each tube) .....	1.25
Individual tube capacity greater than 1,800 cf:	
Purge (each tube) .....	5.50
Evacuate (each tube) .....	7.75
Tube trailer, tube banks, or tubes not manifolded:	
Individual tube capacity 1,800 cf or less:	
Purge (per tube) .....	2.06
Evacuate (per tube) .....	2.35
Individual tube capacity greater than 1,800 cf:	
Purge (each tube) .....	8.30
Evacuate (per tube) .....	10.42
<b>Tank car:</b>	
Purge (each tank car) .....	90.00
Evacuate (each tank car) .....	136.00
<b>Use of Storage Container:</b>	
Tank car per day .....	15.00
<b>Palletizing Cylinders for Shipment:</b>	
Bureau of Mines-furnished pallet .....	62.00

<sup>1</sup> Full purchase price: The advance shall also include the estimated amount for filling charges and the full amount of estimated charges for the services to be rendered.

[FR Doc. 79-37324 Filed 12-4-79; 8:45 am]

BILLING CODE 4310-53-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FRL 1370-5]

### Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** This action revises the federally-promulgated Ohio State Implementation Plan for sulfur dioxide for several sources in Summit County, Ohio. Regulations for sources in Butler County, which were proposed at the same time as the Summit County,

regulations (43 FR 43729, September 27, 1978) require further analysis and will be promulgated at a later date. The regulations for Summit County sources revised by this promulgation will be effective thirty days from promulgation.

**EFFECTIVE DATE:** January 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Susanne Karacki, Assistant to the Branch Chief, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, 312-886-6025.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

On August 27, 1976, the Environmental Protection Agency (EPA) promulgated regulations establishing the State Implementation Plan (SIP) for the control of sulfur dioxide (SO<sub>2</sub>) for the state of Ohio (41 FR 36324, amended November 10, 1976, 41 FR 52455, May 31, 1977, 42 FR 27588 and August 15, 1979, 44 FR 47769). Following promulgation, thirty-three corporations and all of the investor-owned utilities in Ohio filed petitions for review with the United States Court of Appeals for the Sixth Circuit. The major issue in the challenges to the regulation was EPA's use of air quality dispersion models, in particular the RAM model, in setting emission limitations under Section 110 of the Clean Air Act (the Act). EPA considered at length the use of the RAM model as a tool for setting emission limitations which will assure attainment and maintenance of the SO<sub>2</sub> standards and determined that the RAM model is a reasonable method for setting emission limitations. EPA used the urban version of RAM to set limits in six urban areas in Ohio. The Court of Appeals held that the agency's determination was a rational one, well within the agency's discretion. See *Cleveland Electric Illuminating v. EPA*, 572 F.2d 1150 (6th Cir. 1978), cert. denied, 436 U.S. 911 (1978).

EPA is today setting emission limitations in the one remaining urban area in Ohio where SO<sub>2</sub> regulations have not been set. EPA stayed enforcement of the Summit County regulations promulgated in 1976 pending this revision to correct data errors in the modeling. See 40 CFR 52.1881(b)(59). In setting the emission limitations promulgated today, EPA again used the urban RAM model with the corrected data base. The reanalysis has resulted in less stringent emission limitations for most sources. A few sources now have more stringent emission limitations. EPA is deferring setting an emission limitation for PPG Industries, Inc. in order to conduct further study. An

emission limitation for PPG will be set in the near future.

These regulations were published as proposed rules on September 27, 1978, 43 FR 43729. A public hearing was held on October 25, 1978 in Columbus, Ohio. The public comment period, originally ending November 27, 1978, was extended to December 29, 1978, at the request of several sources. Pursuant to the requirements of Section 307(d) of the Clean Air Act, EPA established docket number 5A-78-1 available to the public in the region as well as at EPA headquarters. The docket includes all of the public comments and a transcript of the public hearing.

##### II. Response to Public Comments

###### A. EPA's Use of the RAM Model

Sources in Akron contend that EPA's use of the RAM model in Summit County is inappropriate because, as of the time of the submission of their comments, no violations of the SO<sub>2</sub> standard had been actually recorded by monitors in the County, despite predictions by the model that violations were expected to occur. However, within the first six months of a new monitoring program established by the major sources in Akron to better evaluate the accuracy of RAM, violations of the primary health-related standard have been recorded at levels as high as 455 µg/m<sup>3</sup>.<sup>1</sup>

In addition to the actually recorded violations and exceedances of the standard, comparisons between the RAM model predictions and recorded air quality levels submitted to EPA by the major sources in Akron<sup>2</sup> confirm that RAM modeling is a reasonably accurate means of setting emission limitations.<sup>3</sup> Contrary to the sources' contention, the model did not consistently overpredict measured levels, but underpredicted at some monitors and overpredicted at others,

<sup>1</sup> The highest level of 455 µg/m<sup>3</sup> was recorded at the PPG Pumphouse Monitor. Levels of 420, 410, 452, 418, 387, 375 and 364 µg/m<sup>3</sup> were recorded at three monitors. See 44 FR 32729 (June 7, 1979). The 24-hour health-related standard for SO<sub>2</sub> is 365 µg/m<sup>3</sup> not to be exceeded more than once per year. The data in the first six months of monitoring shows violations of the standard (two exceedances equals a violation) at two monitors and exceedances or close to exceedances at four others.

<sup>2</sup> The model/monitor comparisons were prepared by Environmental Research & Technology, Inc., consultant to the major sources in Akron. EPA reviewed the plans for the study and has received data from the study as it has become available. See Summit County TSD (September 1978) at 70-72. This data including the "Six Month Summary of the Summit County RAM Modeling and Monitoring Study—July 1979" have been placed in the docket.

<sup>3</sup> The sources' consultant found that the model "on the average" overestimated the maximum observed concentrations by about 25 percent.



depending on the averaging time (one, three and 24-hours). The comparisons show that in the six-month period of study, the model underpredicted the second highest actually recorded 24-hour concentrations at three of the twelve monitoring sites and overpredicted at nine of the twelve. The 24-hour underpredictions were in all cases within 12% of the actually monitored values and the overpredictions in all cases except one were within 54% of the monitored values.<sup>4</sup> The study therefore confirms that the model is performing well within expected accuracy of state of the art air quality models and is accurately portraying the air quality in Summit County.

Several sources requested, before any of the new monitoring results were in, that EPA delay setting emission limitations or set status quo emission limitations until all of the monitoring and comparison data was submitted to EPA. This data, however, will not be submitted until mid-1980. Since data from the first six months of monitoring show that the air in Summit County is exceeding the health-related standard for SO<sub>2</sub>, EPA can not delay setting emission limitations needed to protect the public health in Akron.

Moreover, the Akron monitoring program graphically illustrates the limitations of most monitoring systems in assessing the gravity of the air quality situation. The major Akron sources set out nine continuous monitors in addition to the three publicly-owned monitors already set out at sites of model-predicted high concentrations and began collecting data in October of 1978. A violation and several exceedances were recorded in the first three months of operation, as opposed to the previous eight years of monitoring by publicly-owned monitors which never recorded a violation. During the development of the Ohio SO<sub>2</sub> plan, EPA noted that the monitoring system in Summit County, as well as other areas of Ohio, was inadequate to detect violations. Summit County TSD at 68-69.

Most of the comments made by Akron sources raise theoretical criticisms of the model and its use in Akron. The actual data of the Akron study shows

that the model accurately predicts air quality in Akron and therefore is a sound basis for setting emission limitations. For example, several commenters stated that Goodyear's tracer study illustrates the "gross overprediction" of RAM. However, the six-month modeling and monitoring comparison data establishes that RAM accurately predicts concentrations in the tracer study area and, in fact, may be underpredicting 24-hour pollution concentrations.<sup>5</sup> The new data demonstrates the critical flaws of the tracer study; flaws which the agency had noted in its 1978 critique of the study. See TSD at 71-72.

Several commenters (Ohio Edison, Goodyear, Goodrich, and Goodyear Aerospace Corp.) challenged EPA's use of urban dispersion coefficients in modeling for elevated sources in an urban area like Summit County. The sources contended that the coefficients caused the model to overpredict. The commenters, however, did not provide any data to support their contention. EPA has previously considered the use of these urban dispersion coefficients (Supplemental Technical Support Document for Ohio SO<sub>2</sub> Plan, May 1977 at 44-52) and found no technical basis to conclude that these coefficients, which were used in modeling other urban areas in Ohio, are inappropriate. The Akron study data confirms EPA's original conclusion.

Several commenters (Goodyear, PPG Industries and Ohio Edison) contend that a "validation study" of RAM conducted by P. H. Guldberg and C. W. Kern demonstrates the inappropriateness of RAM for Summit County.<sup>6</sup> The Guldberg study compares model predictions to monitor data for five receptor locations in Indianapolis and Michigan City, Indiana. EPA technical staff reviewed the article and their critiques were published in the *Journal of the Air Pollution Control Association*.<sup>7</sup> In sum, the authors criticized the design of the study and concluded that it did not provide data to invalidate the application of the RAM model in Summit County. More importantly, the new Akron data from

twelve monitors operated in Summit County establish the appropriateness of the use of the RAM model in Summit County.

Three commenters (Ohio Edison, Goodyear, and Goodyear Aerospace) stated that EPA's use of design or maximum source operating rates in modeling for the 24-hour standard results in unnecessarily stringent emission limitations. This issue has been discussed at length in the Supplemental TSD (81-83) and the Final TSD (at I-34 to I-41). Moreover, this issue was specifically considered by the Court and EPA's approach affirmed. Briefly, design rates are used because they are easily ascertainable and because protection of the short term health-related standards (24-hour) mandates analysis of "worst case" conditions. See also the Summit County TSD at 68-69.

Finally, PPG Industries made several comments on EPA's RAM modeling and methodology. These comments will be addressed here since they concern the Summit County modeling in general. All of PPG's comments are without merit. PPG commented that the secondary standards had not been analyzed. EPA analyzed the secondary standard and specifically describes this analysis in the Summit County TSD at 58 and 59. PPG commented that EPA's use of the Pasquill-Gifford dispersion coefficients for Stability Class A was inappropriate. Contrary to PPG's comment, the urban RAM model applied in the Summit County analysis does not use the Pasquill-Gifford Class A dispersion coefficients. Rather the Class A dispersion coefficients are used in rural versions of RAM.

PPG also criticized EPA for not taking terrain features into account in its urban RAM modeling of Summit County and recommended that EPA use a new "terrain adjusted RAM model" being developed by EPA's research staff. The Akron Study comparison data supports the accuracy of RAM for Summit County. Terrain features do not appear to be significant in Summit County. Moreover, the new terrain adjusted model known as MPTER is a model for rural applications only and would not be used in an urban area like Summit County.

PPG criticized EPA for using worst-case fuel information in the full year RAM run used to select critical days (days of worst pollutant concentrations). PPG contends that the use of worst-case fuel data will effect the selection of critical days, and that EPA should have used average fuel information as it did in the subsequent RAM runs to locate the critical receptors (points of worst

<sup>4</sup> At one site, PPG Pumphouse, the model overpredicted by 91% the actually monitored second highest 24-hour level for the period from January to March, 1979. However, for the previous quarter the model was only 11% higher than the actually recorded level. The two quarters taken together average an 88% overprediction. While the difference between the first and second quarters can be attributed to the statistical variation expected with a small data set, EPA has requested the input data from PPG to determine if there is another explanation.

<sup>5</sup> At the two monitors in the tracer study area, Goodyear Heights and East High School, the model underpredicted the second highest actually recorded 24-hour concentrations by 8 and 18%. See "Six Month Summary" at Table 5. Looking at the average of the ten highest actually recorded 24-hour concentrations, the model predicted the exact concentrations at one monitor and overpredicted by 12% at the other.

<sup>6</sup> P. H. Guldberg and C. W. Kern, *J. Air Poll. Control Assoc.* 28: 907 (1978).

<sup>7</sup> D. B. Turner and J. H. Novak, *J. Air Poll. Control Assoc.* 29: 385 (1979) and D. A. Trout and M. A. Lazaro, *J. Air Poll. Control Assoc.* 29: 386 (1979).

concentrations on the critical days). Summit County TSD at 12-13. Contrary to PPG's assertion, use of the worst case fuel information would not effect selection of critical days if average fuel figures were proportionate to the worst case figures for all sources. The meteorology would determine when the worst pollution from that set of sources would occur. Moreover, PPG has not demonstrated that other critical days would have been selected if average fuel information had been used. As PPG and several other sources requested, EPA used average fuel data, as it had in its earlier modeling, for all RAM runs other than the full year critical day selection run. In fact, the emission limitations were determined based on the critical day analyses which used average fuel data.

Next, PPG criticized EPA for not rerunning the full year version of RAM on each critical receptor to be sure that the pollutant concentration at the critical receptor is not the highest instead of the second highest 24 hour concentration on that critical day. As explained in the Summit County TSD at 12-13 and 45-50, EPA began its analysis by throwing out all of the highest critical days, leaving only the days on which the second highest pollutant concentrations occur. When the model is rerun to find the critical receptors on those second high days, the probability of picking a receptor which represents the highest 24-hour concentration at that receptor is small. The higher probability is that the model has chosen a receptor which may be less than the second highest; however, EPA has determined that rerunning every critical receptor through the full year RAM run to check for this possibility would be unnecessarily conservative.

PPG also commented that the National Climatic Center issued notice of an error in the mixing height data for meteorological data it released after 1984. While PPG noted that the National Climatic Center found the errors to have little effect on the overall statistical distributions of data, PPG speculates that the errors may have effected the Summit County analysis. There is no evidence nor does PPG offer any evidence that the minor errors in the meteorological data used in Summit County modeling make any difference in the results.

PPG also commented that EPA had not specified the precise location of the final critical receptors. While the RAM model format used for this analysis did not print out all of the critical receptor locations, such information could have been easily generated if PPG had asked

for it. PPG did not. Further, the locations of all of PPG's critical receptors were printed out and have been available in the docket since the regulations were proposed in September 1978.

Finally, PPG comments that the rulemaking is "fatally defective" and results in overly stringent emission limitations because EPA failed to take into account the stand by boiler capacity of other sources besides PPG.

PPG recommends that EPA use Ohio EPA's stand-by boilers information. Contrary to PPG's statement, EPA analyzed the non-simultaneous operating modes of two other sources in Summit County. Three major sources, PPG, Firestone and Goodrich, requested that EPA analyze restrictive operating modes for their sources.<sup>5</sup> Other sources in Summit County did not request analysis based on restricted operating conditions. Regulations based on non-simultaneous operation limit a source's operating options. Therefore, every source would not want to be so limited. Therefore, EPA does not analyze non-simultaneous operation unless requested. Finally, EPA has made every effort to get accurate data for the Summit County analysis by collecting it directly from the sources rather than relying on state-collected data.

#### B. Determination of Compliance

Several sources commented that EPA should allow a longer averaging time for fuel analysis to take sulfur content variability into account. The present policy allows sources to demonstrate compliance by submitting analysis of the sulfur content of their fuel averaged over a 24-hour period. A recent amendment to that policy allows sources to take into account two exceedances in any thirty-day period to account for the sulfur content variability of their fuel. See 43 FR 6646, February 15, 1978, as amended 44 FR 49296, August 22, 1979. EPA has addressed sulfur variability in full in this manner, rather than extending the averaging time. Moreover, the fuel analysis compliance demonstration was established at the request of sources as an alternative to the stack testing procedure originally set out in the EPA's Ohio SO<sub>2</sub> plan. 40 CFR 52.1881(b)(2)(iii). While EPA retains the authority to determine compliance with the regulation by stack testing, and sources may demonstrate compliance by stack tests, EPA will accept as a reasonable

<sup>5</sup> Regulations based on non-simultaneous operating conditions restrict the number of boilers a source may operate at the same time. These sources are subject to special monitoring provisions listed at 40 C.F.R. § 52.1882(d). (44 Fed. Reg. 47769, August 15, 1979).

indication of compliance fuel analysis as outlined in the Federal Register policy statements noted above.

This rule also deletes the reference in the original regulations to § 60.45 which section included a fuel averaging provision at one time, but has been "reserved" for some time. See 40 CFR 52.1881(b)(2)(iii).

#### C. Source Specific Comments.

##### 1. The Firestone Tire and Rubber Company

Firestone commented that it would like to expand the regulations to allow all three of its boilers to burn oil as well as coal. EPA proposed regulations, as requested by Firestone, for two boilers burning coal and one burning oil.

During the comment period, Firestone provided an analysis of the boilers burning oil. Therefore, both sets of emission limitations are included in the final rulemaking. A detailed discussion of the Firestone analysis is provided in the docket. Sources, such as Firestone, may be subject to prohibition orders which would require the conversion of oil-fired facilities to coal burning. In the event of such an order or if a source voluntarily converts to coal-firing, further analysis of the sources emission limitations would be required.

##### 2. Ohio Edison

Ohio Edison stated that the regulations for the Gorge plant, 4.07 lbs. SO<sub>2</sub>/10<sup>6</sup> Btu would require the use of expensive low sulfur coal or the installation of scrubbers. Compliance alternatives to meet the 4.07 emission limitation include: (1) purchase of a lower sulfur coal (approximately 2½ percent sulfur), (2) physical cleaning of the present fuel supply and (3) blending the present fuel with a lower sulfur coal. The reduction in sulfur content required by these regulations would not necessitate the installation of scrubbers.

##### 3. General Electric

General Electric commented that the proposed regulations for Summit County do not include a general SO<sub>2</sub> emission cutoff below which the process weight regulation would not apply. General Electric suggested that the process weight formulas apply only to stationary sources with SO<sub>2</sub> emissions exceeding 10 pounds per hour.

Since the emissions from all SO<sub>2</sub> process sources were considered in the strategy for the attainment of the standards, it would be inappropriate to exempt a source from the regulations without a demonstration that it had no impact on the air quality. Such a demonstration could be handled on case-by-case basis.

#### 4. Goodyear Aerospace Corporation

Based on comments received from Goodyear Aerospace Corporation during the public comment period, an air quality analysis was performed for Goodyear Aerospace to determine whether the proposed SO<sub>2</sub> emission limitations are sufficient to maintain the National Ambient Air Quality Standards on the plant boundary. The analysis established the emission limitations for the facility which are incorporated in the final rulemaking. A detailed discussion of the analysis is provided in the docket.

#### 5. Terex Division of General Motors

General Motors commented that EPA had erred in the calculation of the status quo emission rate utilized in the development of the proposed regulation. EPA accordingly, reanalyzed the facility and developed an emission limitation based on the corrected emission rate. This emission limitation is included in the final rulemaking. A detailed discussion of the analysis is provided in the docket.

#### 6. The General Tire and Rubber Company and the Goodyear Tire and Rubber Company

During the comment period, Goodyear and General Tire indicated that they would jointly analyze alternative emission limitations based on alternative operational modes at their respective facilities. Specifically, Goodyear, for Plant II, wanted to (1) continue the operation of boilers A, B, and C and to reserve boiler D for non-simultaneous operation as a substitute for either boiler A or B and (2) duct the discharge from boiler C to the boiler A-B stack. General Tire wished to combine the emissions currently discharged from three small stacks into a 175 foot stack consistent with section 123 of the Clean Air Act. Goodyear and General Tire provided a joint analysis of the alternative operating configurations and asked EPA to review it. EPA reviewed the analysis and determined that it followed EPA modeling procedures, employed alternative operating modes which represent good engineering practice and demonstrates that with the revised operating modes, the alternative set of emission limitations will attain and maintain standards. Therefore based on the new operating modes, the alternative emission limitations meet the requirements of Section 110 of the Clean Air Act. EPA is promulgating both the proposed regulations as well as the alternative emission limitations in order to insure that there will be a regulation for both sources if either or both do not

make the operating changes which will allow them to use the alternative emission limitations to meet the standards. A detailed discussion of the alternative emission limitations analysis is included in the docket.

#### 7. RCA Rubber Company

It was noted that although § 52.1875 footnote "f" (2) of the proposed rulemaking for Summit County (43 FR 43729) specifically mentioned the RCA Rubber Company, no regulation, specific to RCA Rubber Company, was included in the September 27, 1978 proposed portions of § 52.1882(b)(59). RCA Rubber Company is subject to § 52.1882(b)(59)(i), the general regulation for fossil fuel-fired steam generating units between 10.0 and 300 million Btu per hour. RCA Rubber is listed in § 52.1875 footnote "f" (2) because it was included in the reanalysis of Summit County as it interacted with the petitioners (see Summit County TSD at pages 64-65). RCA Rubber is, accordingly, now subject to the new attainment and compliance schedule dates specified within the regulations finalized today.

#### 8. The B.F. Goodrich Company

The B.F. Goodrich primary boiler is coal fired Boiler 32 with backup provided by oil fired Boiler 31. Boiler 27 is a coal fired standby boiler. At the request of B.F. Goodrich, the USEPA modeling analysis for the September 27, 1978 proposed regulations considered the simultaneous operation of Boilers 31 and 32. Boiler 27 was modeled as operating alone. During the public comment period, B.F. Goodrich indicated that it may need to use Boiler 27 with either Boiler 32 or 31 during emergency situations should either Boiler 31 or 32, respectively, be down for emergency repair.

In response to this comment, EPA analyzed the operation of coal-fired Boiler 27 simultaneously with oil-fired Boiler 31 and found that they could be operated simultaneously at the proposed emission limitations without violating the standards. The simultaneous operation of coal-fired Boiler 27 with coal-fired Boiler 32 was not analyzed, at B.F. Goodrich's request, since the simultaneous operation of these two coal fired boilers would necessitate a more restrictive emission limitation to attain the standards and since it is improbable that Boiler 27 will ever be necessary for operation with Boiler 32. It, therefore, remains a violation of the applicable regulations for Boiler 27 to be operated simultaneously with Boiler 32. A detailed discussion is provided in the docket.

Goodrich suggested that a reporting requirement for the extremely limited possibility of operating Boiler 27 with Boiler 32 be incorporated in the regulations. Such a reporting provision was added to § 52.1882 on August 15, 1979 (44 FR 47769). Section 52.1882(d) specified monitoring and reporting requirements for all sources with non-simultaneous operation provisions.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these regulations, "specialized." The Agency has reviewed this regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979, by the Administrator, and has determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

After review of all public comments and the support material, the Administrator has determined that these regulations meet the requirements of section 110 of the Clean Air Act and EPA regulations at 40 CFR Part 51; accordingly, the revisions are approved.

Dated: November 29, 1979.

Douglas M. Costle,  
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### Subpart KK—Ohio

1. In § 52.1875, the attainment date for sulfur dioxide in the table is revised for several sources in Summit County. This revision is reflected in footnote "f" to the table.

#### § 52.1875 Attainment dates for national standards.

\* \* \* \* \*

f. August 27, 1979 except for the companies listed in (1) which are subject to an attainment date of June 17, 1980, the Ashland Oil Company which is subject to an attainment date of September 14, 1982, and the companies in Summit County listed in (2) which are subject to an attainment date of (3 years from the effective date of promulgation).

\* \* \* \* \*

(2) In Summit County: Diamond Crystal Salt; Firestone Tire & Rubber Co.; General Tire & Rubber; B. F. Goodrich, Co.; Goodyear Aerospace Corp.; Goodyear Tire & Rubber Co.; Ohio Edison Co.; RCA Rubber Co.; Chrysler Corp.; PPG Industries, Inc.; Seiberling Tire & Rubber; Terex Division of General Motors Corp.; Midwest Rubber Reclaiming; Kittinger Supply Co.

2. Section 52.1881 is amended by amending paragraph (b) as follows:

**§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).**

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

**(2) Test Methods and Procedures**

(iii) The test methods and procedure used to determine the compliance of any stack venting any fossil fuel-fired steam generating units subject to the applicable paragraphs of § 52.1881(b) shall be those prescribed in § 60.46 of this chapter.

**(59) In Summit County**

(iii) The present or any subsequent owner or operator of the Diamond Crystal facility in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from coal-fired boilers at this facility in excess of 4.72 pounds of sulfur dioxide per million BTU of actual heat input or the emission of sulfur dioxide from oil-fired boilers at this facility in excess of 0.30 pound of sulfur dioxide per million BTU of actual heat input.

(iv) The present or any subsequent owner or operator of the Kittinger Supply Co. (formerly known as Akwell Industries) facility in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from oil-fired boilers at this facility in excess of 0.80 pound of sulfur dioxide per million BTU of actual heat input or the emission of sulfur dioxide from coal-fired boilers at this facility in excess of 2.38 pounds of sulfur dioxide per million BTU of actual heat input.

(vi) The present or subsequent owner or operator of the Seiberling Rubber Co. facilities in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 1.46 pounds of sulfur dioxide per million BTU actual heat input.

(vii) The present or subsequent owner or operator of the Firestone Tire & Rubber Co. facilities in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below:

(A) 1.76 pounds of sulfur dioxide per million BTU of actual heat input from boiler 21 when oil fired and 2.87 pounds of sulfur dioxide per million BTU of

actual heat input from boilers 22 and 23 when coal fired.

(B) In lieu of meeting subparagraph (59)(vii)(A) of this paragraph, the Firestone Tire and Rubber Co. may elect to comply with the alternate emission limitation of 2.20 pounds of sulfur dioxide per million BTU of actual heat input from boilers 21, 22, and 23 when all are oil fired.

(C) Firestone Tire & Rubber Co. or any subsequent owner or operator of the Firestone Tire & Rubber facilities located in Summit County, Ohio, shall operate no more than two of the boilers, 21, 22, or 23 simultaneously whether complying with either § 52.1881(b)(59)(vii)(A) or § 52.1881(b)(59)(vii)(B).

(viii) The present or subsequent owner or operator of the B. F. Goodrich Co. facilities in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below:

(A) 0.51 pound of sulfur dioxide per million BTU actual heat input for oil-fired boiler 31.

(B) 5.54 pounds of sulfur dioxide per million BTU actual heat input for coal-fired boilers 27 and 32.

(C) The B. F. Goodrich Co. or any subsequent owner or operator of the B. F. Goodrich facilities in Summit County, Ohio, shall not operate boiler 27 simultaneously with boiler 32.

(ix) The Goodyear Tire & Rubber Co. or any subsequent owner or operator of the Goodyear facilities in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack in excess of the rates specified below:

(A) 4.47 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating unit B001 located at plant I.

(B) 0.50 pound of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating units B002 and B003 located at plant I.

(C) 160 pounds of sulfur dioxide per 1,000 pounds of sulfur processed, for the sulfur recovery unit(s).

(D) for Plant II boilers:

(1) 2.24 pounds of sulfur dioxide per million BTU actual heat input for coal-fired boilers A and B exiting through stack 4.

(2) 2.24 pounds of sulfur dioxide per million BTU actual heat input for coal-fired boiler C exiting through stack 5.

(3) 2.24 pounds of sulfur dioxide per million BTU actual heat input for coal-fired boiler D exiting through stack 6.

(E) In lieu of meeting subparagraph (59)(ix)(D) of this paragraph, The Goodyear Tire and Rubber Company

may elect to comply with the alternate emission limitations and operating conditions specified below for Plant II boilers, provided the General Tire and Rubber Company or any subsequent owner or operator of the General Tire facilities in Summit County, Ohio complies with § 52.1881(b)(xviii)(D):

(1) The Goodyear Tire and Rubber Company shall not cause or permit the emission of sulfur dioxide from any stack in excess of the rates specified below:

(i) 4.64 pounds of sulfur dioxide per million BTU actual heat input for coal-fired boilers A, B, and C exiting through stack 4.

(ii) 4.64 pounds of sulfur dioxide per million BTU actual heat input for coal-fired boiler D exiting through stack 6.

(2) The Goodyear Tire and Rubber Company shall operate no more than three of the boilers A, B, C, or D simultaneously.

(3) The Goodyear Tire and Rubber Company shall not operate boiler D simultaneously with boilers A and B.

(xi) The Ohio Edison or any subsequent owner or operator of the Ohio Edison Co.'s Beech Street power station in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Beech Street plant in excess of 2.79 pounds of sulfur dioxide per million BTU actual heat input.

(xii) The Ohio Edison Co. or any subsequent owner or operator of the Ohio Edison Co.'s Gorge plant in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Gorge plant in excess of 4.07 pounds of sulfur dioxide per million BTU actual heat input.

(xiv) Reserved.

(xv) PPG Industries, or any subsequent owner or operator of the PPG Industries, Inc., Columbia Cement Plant, located in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack in excess of 0.0 pounds of sulfur dioxide per ton actual process weight input for the kilns.

(xvi) The present or any subsequent owner or operator of the Midwest Rubber Co. in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess 1.80 pounds of sulfur dioxide per million BTU actual heat input.

(xvii) The present or any subsequent owner or operator of the Terex Division of General Motors Corp. in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any

stack at this facility in excess of 0.78 pounds of sulfur dioxide per million BTU actual heat input.

(xviii) The present or any subsequent owner or operator of the General Tire & Rubber Co. in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below:

(A) 0.46 pound of sulfur dioxide per million BTU actual heat input for oil-fired boiler 1 when exiting through stack S-35;

(B) 0.46 pound of sulfur dioxide per million BTU actual heat input for oil-fired boiler 2 when exiting through stack S-36;

(C) 0.46 pound of sulfur dioxide per million BTU actual heat input for oil-fired boiler 3 when exiting through stack S-37.

(D) In lieu of meeting subparagraph (59)(xviii) (A); (B); and (C) of this paragraph, The General Tire and Rubber Company may elect to comply with the alternate emission limitations and operating conditions specified below, provided the Goodyear Tire and Rubber Company or any owner or operator of the Goodyear Tire and Rubber Plant II facilities in Summit County, Ohio, complies with § 52.1881(b)(ix)(E):

(I) The General Tire and Rubber Company shall not cause or permit the emission of sulfur dioxide from any stack in excess of 2.47 pounds of sulfur dioxide per million BTU actual heat input for oil-fired boilers 1, 2, and 3 when exiting through one 175 foot stack consistent with § 123 of the Clean Air Act, as amended:

(xix) The present or any subsequent owner or operator of the Goodyear Aerospace Co. in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at AB boilerhouse of this facility in excess of 1.10 pounds of sulfur dioxide per million BTU of actual heat input or the emission of sulfur dioxide from any stack at D boilerhouse of the facility in excess of 1.83 pounds of sulfur dioxide per million BTU of actual heat input.

(xx) The present or any subsequent owner or operator of the B. F. Goodrich Chemical Co. in Summit County, Ohio, shall not cause the emission of sulfur dioxide from any stack at this facility in excess of 5.22 pounds of sulfur dioxide per million BTU actual heat input.

(xxi) The present or any subsequent owner or operator of the Chrysler Corp. in Summit County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of the rates specified below:

(A) 0.86 pound of sulfur dioxide per million BTU actual heat input for boiler No. B001.

(B) 1.19 pounds of sulfur dioxide per million BTU actual heat input for boilers Nos. B002 and B003.

3. A new § 52.1882(e) is added as follows:

**§ 52.1882 Compliance Schedules.**

\* \* \* \* \*

(e)(1) The Federal compliance schedule for sources in Summit County identified in § 52.1875, footnote "f" is set forth in § 52.1882(b) except that all references to June 17, 1977, are changed to (the effective date of promulgation).

(2) The owner or operator of any fossil-fuel fired steam generating unit in Summit County with alternative emission limitations specified for one or more units at its facility in § 52.1881(b)(59) shall notify the Administrator no later than 17 weeks after (the effective date of promulgation) of the applicable emission limitation selected. Failure to indicate a selected emission limitation shall result in each unit at a facility being subject to the first emission limitation specified for that unit in the applicable regulation.

[FR Doc. 79-37368 Filed 12-4-79; 8:45 am]

BILLING CODE 6560-01-M.

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Public Health Service

#### 42 CFR Part 36.

#### Indian Health; Contracts Under the Indian Self-Determination Act; Correction

**AGENCY:** Public Health Service, HEW.

**ACTION:** Correction of Rules and Regulations.

**SUMMARY:** HEW corrects the Regulation published in the Federal Register November 14, 1975 (40 FR 53142; FR Doc. 75-30624). In that publication there was an inadvertent omission of a clause in the second sentence of 42 CFR 36.226(a) which appeared at page 53153 dealing with advance payments. The clause makes no sense as currently presented and was to have read the same as the corresponding clause at 41 CFR 1-30.414-2). 42 CFR 36.226(a) is corrected in the second sentence beginning on the eleventh line by adding the words "to the financial necessity therefore; (2) in an amount which together," immediately following the word "as".

**EFFECTIVE DATE:** December 5, 1979;

**FOR FURTHER INFORMATION CONTACT:** Richard McCloskey, Indian Health Service, Room 6A-20, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1116.

Dated: November 29, 1979.

Robert F. Sermier,  
*Acting Deputy Assistant Secretary for  
Management Analysis and Systems.*

[FR Doc. 79-37382 Filed 12-4-79; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[FCC 79-767]

#### Reregulations and Rules Oversight of the AM, FM, and TV Broadcast Rules

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Order.

**SUMMARY:** This order combines the rules found in the AM, FM, and TV services which pertain to "Station location and program origination"; "authority to move main studio"; and "station location, main studio location" which are presently found in Subparts A, B, and E of Part 73 of the Commissions rules. Three new rules will be formed from the above and put into Subpart H of Part 73 which is applicable to all broadcast stations. This action is being taken as a part of the Commission's restructuring of Part 73 to bring together into Subpart H, rules which are applicable to all broadcast stations but are now contained in various subparts: (Subpart A (AM), Subpart B (FM), and Subpart E (TV)).

**EFFECTIVE DATE:** December 10, 1979.

**ADDRESS:** Federal Communications  
Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Steve Crane, Philip Cross, John Reister, Broadcast Bureau, (202) 632-9660.

#### SUPPLEMENTARY INFORMATION:

In the matter of reregulation and rules oversight of the AM, FM and TV Broadcast Rules.

Adopted: November 20, 1979.

Released: December 3, 1979.

By the Commission: Commissioner Lee  
absent.

1. In this Reregulation Order, the Commission amends § 73.30, "Station location and program origination;" § 73.31, "Authority to move main studio;" § 73.210, "Station location, main studio location, and program origination;" and § 73.613, "Main studio location."



2. The amendments to these four regulations are as follows:

(a) The basics of the four rules, being essentially the same and therefore "applicable to all services," are combinable and subject to being placed in Subpart H, Part 73—"Rules Applicable to All Broadcast Stations."

(b) The rules can be redefined and herein will be stated as: (i) Section 73.1120 "Station location;" (ii) Section 73.1125 "Station main studio location;"<sup>1</sup> (iii) Section 73.1130 "Station program origination."

(c) The station location rule is presently stated in § 73.30 for AM; § 73.210 for FM; § 73.613 for TV (by the statement in the TV rule titled "Main Studio Location" that the main studio "shall be located in the principal community to be served") and in part by § 73.606, "Table of Assignments" (TV) which states "The \* \* \* table of assignments contains the TV channels assigned to the listed communities" (emphasis added). The revised, rewritten, new rule combines, in essence, the pertinent parts of the four regulations named above. With simple clarity, it sets forth what are, essentially, the requirements pertaining to, and the FCC's definition of, "station location."

(d) In Docket 8747<sup>2</sup> the Commission adopted rules relating to the location of main studios and the origination of programs of AM and FM stations from these studios. This proceeding developed and refined the basic meaning of such terms as community of license, principal community, the main studio of a station, program originations from the main studio (*ergo*, from the community of license) and multiple city licensing. Over the years, revisions have been made in the rules texts, section numbers and titles. The present rules (for AM: 73.30, "Station location and program origination" and 73.31, "Authority to move main studio;" and for FM: 73.210, "Station location, main studio location and program origination") are basically alike.<sup>3</sup> The

TV rule, 73.613, "Main studio location," is silent on the matter of program origination. However, the Commission has repeatedly applied the AM and FM requirements on program origination to TV. Exceptions were made in certain *ad hoc* cases, e.g., Ponce Television Corporation (Ponce)<sup>4</sup> and Nationwide Communications, Inc. (NCI).<sup>5</sup>

(e) The program origination requirements of AM and FM rules having been applied generally to TV, we conclude that such requirements can be combined into one rule applicable to AM, FM and TV (commercial and noncommercial educational) and moved, as rewritten, to Subpart H of Part 73, "Rules applicable to all broadcast stations." However, the rule will be revised for clarification and relaxation. The present AM and FM rules provide that a majority of a station's programs, or in the case of a station affiliated with a network,  $\frac{2}{3}$  of such station's non-network programs, whichever is smaller, shall originate from the main studio or from the other studios or remote points situated in the place where the station is located. We believe that the "majority of a station's programs" criterion is adequate without the alternative " $\frac{2}{3}$ " criterion, which will be eliminated.

(f) Cross references in § 73.3538, "Application to make changes in an existing station" are made to §§ 73.31, 73.210 and 73.613 and are corrected to reference the new rule sections.

3. These revisions in no way impose additional burdens or remove provisions relied upon by licensees or the public.

4. For further information on this Order, contact either Steve Crane, Phil Cross or John Reiser, Broadcast Bureau, (202) 632-9660.

5. We therefore conclude that, for the reasons set forth above, adoption of these revisions will serve the public interest, and inasmuch as these amendments impose no additional burdens and raise no issues upon which comments would serve any useful

transmitter site has seldom raised questions of studio accessibility or *de facto* station location."

<sup>4</sup> Commission letter to Ponce Television Corporation, dated March 21, 1969, FCC 69-285; 17 F.C.C. 2d 411. In Ponce, the Commission, passing on the matter of main studio location, stated that "We will define in this case a main studio as that studio from which more than 50% of the programs originate, exclusive of network and entertainment programs."

<sup>5</sup> Nationwide Communications, Inc. (NCI): *Memorandum Opinion and Order*, FCC 69-640, adopted June 5, 1969, 18 F.C.C. 2d 171. In NCI, the Commission stated that the station would be in compliance with 73.613 as to location of main studio when more than 50% of the programs, exclusive of network programs, were originated from the main studio, but said that it saw no reason to include entertainment programs in the 50% requirement. It did say that "locally produced" programs should be included in the 50%.

purpose, prior notice of rulemaking, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. § 553(b)(3)(B).

6. Therefore, it is ordered, That pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's Rules and Regulations are amended as set forth in the attached Appendix, effective December 10, 1979.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission,  
William J. Tricarico,  
Secretary.

## Appendix

1. Section 73.30 is revised to read as follows:

**§ 73.30 Station location and program origination.**

See §§ 73.1120, 73.1125 and 73.1130.

2. Section 73.31 is revised to read as follows:

**§ 73.31 Authority to move main studio.**

See § 73.1125.

3. Section 73.210 is revised to read as follows:

**§ 73.210 Station location, main studio location and program origination.**

See §§ 73.1120, 73.1125, 73.1130.

4. Section 73.613 is revised to read as follows:

**§ 73.613 Main studio location.**

See §§ 73.1120, 73.1125 and 73.1130.

5. New § 73.1120 is added to Part 73, Subpart H, to read as follows:

**§ 73.1120 Station location.**

(a) Each AM, FM and TV broadcast station will be licensed to the principal community or other political subdivision which it primarily serves. This principal community (city, town or other political subdivision) will be considered to be the geographical station location.

(b) AM and FM stations (not TV stations) will be licensed to serve more than one community or other political subdivision only where a satisfactory showing is made:

(1) That each such place meets all the requirements of § 73.1125 with respect to the location of main studios;

(2) That the station can and will originate a substantial number of local live programs from each place; and

(3) That the requirements as to origination of programs in § 73.1130 would place an unreasonable burden on the station if it were licensed to serve

<sup>1</sup> Including relocation provisions.

<sup>2</sup> *Report and Order*, Docket 8747, FCC 50-1441, adopted December 4, 1950, 15 FR 8992, 43 F.C.C. 570.

<sup>3</sup> Alike with this exception, that AM station main studios may move to the station transmitter even if the transmitter is located outside the city of license. The Commission expressed the reasoning behind this succinctly in Docket 19028 (*Report and Order*, Docket 19028, FCC 71-150, adopted February 10, 1971; 27 F.C.C. 2d 851, particularly para. 4 and footnote 2) when they stated that prior "Commission approval for main studio relocation at a transmitter site outside the community of license is not required since technical considerations governing AM transmitter site selection usually place such sites in close proximity to the community of license and not in another large city. For this reason, AM studio relocation at the authorized

only one community or other political subdivision

(c) A station licensed to serve more than one community shall be considered to be located in and shall maintain main studios in each such place.

(1) For such licensed stations, the requirements regarding program origination in § 73.1130 shall be fulfilled by originating programs from any, or all, of the main studios or other studios or remote points situated in any or all of the places in which the main studios are located.

6. New § 73.1125 is added to Part 73, Subpart H, to read as follows:

**§ 73.1125 Station main studio location.**

(a) Each AM, FM and TV broadcast station shall maintain a main studio in the station's principal community which it is licensed to serve, except:

(1) AM stations licensed as synchronous amplifier transmitters ("AM boosters") or,

(2) AM stations whose main studio is located at the station transmitter which is situated outside the station's principal community of license or, an FM station, commonly owned with such AM station, and licensed to the same principal community, whose main studio may also be co-located at the commonly owned AM station's transmitter or,

(3) AM, FM or TV stations, when good cause exists for locating the main studio outside the principal community to be served and that to do so would be consistent with operation of the station in the public interest.

(b) Relocation of the main studio may be made:

(1) From one point to another within the principal community or from a point outside the principal community to one within it, without specific FCC authority, but notification to the FCC in Washington shall be made promptly; however,

(2) From a point within the principal community to one outside it or from one such point outside the community to another, only by first securing modification of construction permit or license. (FCC Forms 301 for commercial stations and 340 for noncommercial educational stations.)

(3) Two exceptions to paragraph (b)(2) of this section are:

(i) AM stations moving their main studio to their transmitter site wherever it is located; and,

(ii) FM station, commonly owned with an AM station, and licensed to the same community, whose main studio is co-located.

(iii) Notification to the FCC in Washington shall be made promptly of such relocations described in

paragraphs (b)(3)(i) and (ii) of this section.

(c) Where the principal community to be served does not have specifically defined political boundaries, applications will be considered on a case-by-case basis by the FCC to determine if the main studio is located within the principal community to be served.

7. New § 73.1130 is added to Part 73, Subpart H, to read as follows:

**§ 73.1130 Station program origination.**

(a) More than 50% of an AM, FM or TV station's non-network programs shall originate from the station's main studio or from points which are remote from the main studio so long as such origination points are situated in the principal community which the station is licensed to serve.

(b) Such originations shall be computed on the basis of total duration or total length of time of programs, and not on the number of separate programs.

8. Section 73.3538 is amended by revising paragraphs (a) (5), (6) and (7) to read as follows:

**§ 73.3538. Application to make changes in an existing station.**

\* \* \* \* \*

(a) \* \* \*

(5) To move the main studio location of an AM station to a location outside the principal community, or to move the studio from one location outside the principal community to another such location (other than to the authorized transmitter site). See § 73.1125.

(6) To move the main studio of an FM station to a location outside the principal community or to move the studio from one location outside the principal community to another such location (other than to the studio of a commonly-owned AM station licensed to the same community). See § 73.1125.

(7) To move the main studio of a TV station to a location outside the principal community, or to move the studio from one location outside the principal community to another such location. See § 73.1125.

\* \* \* \* \*

[FR Doc. 79-37362 Filed 12-4-79; 8:45 am]  
BILLING CODE 6712-01-M

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**14 CFR Part 1209**

**Boards and Committees**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule; correction.

**SUMMARY:** This correction to 14 CFR 1209.3, Contract Adjustment Board, adds a Section Heading that appeared in the Table of Contents but not in the Text.

**EFFECTIVE DATE:** October 31, 1978.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Margaret M. Herring, 202-755-3140, National Aeronautics and Space Administration, Washington, D.C. 20546.

**SUPPLEMENTARY INFORMATION:** FR Doc. 78-30645 published at 43 FR 50674, October 31, 1978 is corrected on page 50674 in the middle column by inserting a section heading "§ 1209.303 Function of Board" immediately below the words "this regulation" at the end of § 1209.302 and above paragraph "(a) The Board \* \* \*".

Margaret M. Herring,  
Alternate Federal Register Liaison Officer.

[FR Doc. 79-37580 Filed 12-4-79; 10:03 am]  
BILLING CODE 7510-01-M

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Parts 2 and 271**

[Docket No. RM79-19; RM78-12]

**Order Granting Rehearing for the Purpose of Further Consideration and Further Staying of Order No. 45 and Order No. 31-A**

Issued November 30, 1979.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Order Staying Effective Date.

**SUMMARY:** On October 19, 1978 the Commission stayed the effective date of Orders 45 [Docket No. RM79-19] and 31-A [Docket No. RM78-12] until December 5, 1979 [44 FR 61327, October 25, 1979]. Order No. 45 [44 FR 51554, September 4, 1979] addressed the issue of producer responsibility for production-related costs incurred in first sales of natural gas produced at Prudhoe Bay, Alaska for transport through the Alaska Natural Gas Transportation System by amending Commission regulations under the Natural Gas Policy Act and providing a policy statement under the Natural Gas Act. Order No. 31-A [44 FR 41681, September 4, 1979] implemented the policy of Order No. 45. Petitions to rehear both orders were received. In addition, the Secretary of Energy requested rehearing to permit time for certain actions by the Department of Energy which will relate to Order No. 45. In light of these requests, and

because of the complexity of the issues involved it is appropriate to further stay the effective date for both orders.

**DATE:** Effective dates of Order No. 45 and Order No. 31-A stayed until December 21, 1979.

**FOR FURTHER INFORMATION CONTACT:** John Conway, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8100-K, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8150.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

In the matter of treatment of certain production-related costs for natural gas to be sold and transported through the Alaska natural gas transportation system, Docket No. RM79-19; and determination of incentive rate of return, tariff and related issues, Docket No. RM78-12. Order Granting Rehearing for the Purpose of Further Consideration and Further Staying of Order No. 45 and Order No. 31-A.

On August 24, 1979, the Commission issued final regulations respecting the treatment of production-related costs under the Natural Gas Policy Act for natural gas produced at Prudhoe Bay Alaska for transport through the Alaska Natural Gas Transportation System (ANGTS). These were issued as Order No. 45 in Docket No. RM79-19. On the same day the Commission issued Order No. 31-A in Docket No. RM78-12 which applied the policy of Order 45. On September 21, 1979, the Atlantic Richfield Company, the Sohio Natural Resources Company, and the Phillips Petroleum Company filed separate applications for rehearing of these two orders. On September 24, 1979, the State of Alaska and the Exxon Corporation filed separate applications for rehearing of the two orders. On October 15, 1979, the Commission was informed by letter from the Secretary of Energy that a formal filing by the Department of Energy will be made which will reflect discussions held by the Department and North Slope producers on the impact of producer financing commitments for the ANGTS on Order 45. The Secretary's letter therefore requested rehearing to reconsider Order No. 45.

On October 18, 1979, the Commission granted rehearing of Order No. 45 and Order No. 31-A solely for purposes of further consideration. This was done in response to the request of the Secretary of Energy and to conclude deliberations of the issues raised in the applications for rehearing. In that order the Commission found that it was

appropriate to stay the effective date of Order No. 45 and Order No. 31-A until a fixed date, December 5, 1979. Due to the complexity of the issues involved, and in the absence of any further filing by the Department of Energy, it is appropriate to extend that stay until December 21, 1979.<sup>1</sup>

#### *The Commission orders:*

(A) The petitions for rehearing of Order No. 45 and Order No. 31-A, filed in this proceeding, are granted solely for the purpose of affording further time for consideration of the petitions and to afford further time for relevant filings on the part of the Department of Energy. This action does not constitute a grant or denial of the petitions on their merits in whole or in part. As provided by § 1.34(d) of the Commission's Regulations, no answer to the applications filed in this proceeding will be entertained by the Commission since this order does not grant rehearing on any substantive issues.

(B) Ordering Paragraph (1) of Order No. 45, issued August 24, 1979, under Docket No. RM79-19 and Ordering Paragraph (B) of Order No. 31-A, issued August 24, 1979, under Docket No. RM78-12 are stayed until December 21, 1979.

By the Commission.  
Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37400 Filed 12-3-79; 10:12 am]  
BILLING CODE 6450-01-M

<sup>1</sup> As with the initial stay of October 18, 1979, this order does not apply to Order No. 31 or Order No. 31-B, issued under Docket No. RM78-12. Orders 31 and 31-B are formal orders now in effect.



# Proposed Rules

Federal Register

Vol. 44, No. 235

Wednesday, December 5, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Farmers Home Administration

#### 7 CFR Parts 1802 and 1930

[FmHA Instructions 430.2 and 1930-C]

#### Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients; Revision—Redesignation

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Farmers Home Administration (FmHA) proposes to review and redesignate its regulations pertaining to the management and supervision of the recipients of FmHA Rural Rental Housing loans, Labor Housing loans and grants, Rural Cooperative Housing loans, and Rural Housing Site loans. This action is taken as part of an overall restructuring of FmHA program regulations and its numbering system. It also incorporates provisions of public laws and reflects an internal FmHA reorganization. The intended effects of this action are to: (1) Respond to numerous requests from the public for more guidance and clarification on FmHA Multiple Family Housing project management and supervision; (2) provide guidance to both FmHA personnel and the public which will result in uniform management and supervision of the affected programs; and (3) make appropriate changes to comply with the reorganization being implemented in the Agency.

**DATES:** Comments must be received on or before February 4, 1980.

**ADDRESSES:** Submit an original and a conformed copy of all written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, Washington, D.C. 20250. All written comments made pursuant to this notice will be available

for public inspection at the address given above.

**FOR FURTHER INFORMATION CONTACT:** M. K. Smith, Housing Management Specialist, Multiple Family Housing Management and Support Division, Telephone (202) 447-7207.

**SUPPLEMENTARY INFORMATION:** The Farmers Home Administration (FmHA) revises and redesignates its regulations concerning the management and supervision of Multiple Family Housing borrowers and grant recipients from Part 1802 Subpart G to a new Subpart C of a new Part 1930 entitled "General," in Subchapter H, of Chapter XVIII, Title 7 in the Code of Federal Regulations.

FmHA regulations presently provide only limited guidance to the public and FmHA personnel concerning the supervision of Multiple Family Housing loan and grant recipients, and no guidance concerning the operation and maintenance of these housing projects to assure that the projects are operated for the benefit of those they are intended to serve. Consequently, numerous requests have been received from loan and grant recipients, intended program beneficiaries, and FmHA personnel for the establishment of FmHA policies on project management and supervision, and for improvement of the regulation concerning the supervision and reporting requirements of Multiple Family Housing loan and grant recipients themselves. The purpose of this regulation is to provide the requested policy, and to establish uniform management and supervision in the affected programs. The proposed regulation also makes appropriate changes to comply with the reorganization in the Agency.

The reorganization being implemented requires that loans will be supervised to the maximum extent possible by the FmHA District Office staff. The State Office staff will monitor Multiple Family Housing program loan making and servicing, and will provide assistance to District Office personnel to the extent necessary to assure that the activities are being accomplished in an orderly manner consistent with FmHA regulations. In addition to the overall restructuring of the regulation the following specific changes have been made:

1. Section 1930.108 is added to specify the extent of management expected in rural rental housing (RRH), rural

cooperative housing (RCH), and labor housing (LH) projects, and to make reference to a new Exhibit B of Subpart C which serves as a project management guide for FmHA borrowers and FmHA personnel.

2. Section 1930.110(b) is revised to provide more specific guidance concerning the types of supervisory guidance necessary for borrowers who have yet to demonstrate their managerial ability and those that are experiencing difficulties.

3. Section 1930.113 is revised to eliminate all reference to "users."

4. Section 1930.117 is added to prescribe the responsibilities of FmHA District Directors, State Directors, and State office staff members for the effective supervision of RRH, RCH, and LH projects for the benefit of the tenants.

5. Section 1930.119 is added to require FmHA District Directors to make, record, and document a visit to each project site as necessary to enhance the accomplishment of the objectives of the loan or grant program.

6. Section 1930.122 is revised to delete reference to the accounts and records of small water associations.

7. Section 1930.124 is revised to reference forms which were previously shown as exhibits to the regulation. The forms are available (or will become available when implemented) in any FmHA District Office.

8. Section 1930.128 is revised to be applicable only to projects involving LH grants.

9. Section 1930.129 is added to specify the special FmHA supervisory actions necessary on rural housing site (RHS) loan projects.

10. Section 1930.134 is added to require each state office to maintain a record of all multiple family housing borrowers and grant recipients.

11. Section 1930.141 is added to list the information to be provided FmHA applicants, borrowers, and grant recipients concerning the management of their multiple family housing projects.

12. Exhibit A is added to provide additional guidance to FmHA field personnel in conducting the annual analysis required by § 1930.124(d).

13. Exhibit B is added to provide a detailed management guide for RRH, RCH and LH loan and grant recipients and to be used as a handout. Included are guidelines for tenant admissions,

leasing requirements and guidelines for termination of leases and evictions. Proper notification and advice of rights under the FmHA Tenant Grievance and Appeals Procedure are required for applicants who have been denied admission to occupancy and for tenants where modification of leases, termination of leases, or evictions are proposed.

Other significant policy changes included in Exhibit B:

Paragraph II M 2 f permits the exemption of the income of a tenant, co-tenant, or spouse of either who is residing in an institution such as a nursing home.

Paragraph II A 2 limits interest credit Plan II to low- and moderate-income persons.

14. Exhibit C is revised and renumbered from Exhibit F, Part 1802 to regarding rent increases:

a. Paragraph II is revised to require that all borrowers be encouraged to participate in the Rental Assistance Program and to provide that borrowers with projects meeting the eligibility requirements for Rental Assistance will be required to participate in the Rental Assistance program where a rent increase will result in 20 percent or more of the low-income tenants paying in excess of 25 percent of their adjusted monthly incomes for rent and utilities. It also provides that the Exhibit will apply to rent increases resulting from HUD's Automatic Adjustment Factors for units receiving Section 8 assistance.

b. Paragraph III C has been added to eliminate the requirement for tenant notification of proposed rent increases when no tenant in the project will be faced with an increase in rent as a result of the proposed action.

c. Paragraph IV B 1 has been added to clarify situations in which a request for rent increase should not be authorized.

d. Paragraph IV B 2 has been added to clarify the provisions which should be in the State Director's Letter of Approval of a Rent Increase.

The intended effect of these revisions is to spell out those responsibilities FmHA borrowers and grantees are required to carry out and to provide a practical system for supervision and monitoring by FmHA personnel. Major emphasis is placed on borrowers and grantees carrying out their responsibilities. Also, the reorganization of FmHA's district office field staff has been implemented, and this instruction is needed for them to effectively administer the program. Applicants need this instruction to provide information on how they are to work with the reorganized field staff, thereby lessening their burden in obtaining

FmHA assistance. This instruction is needed in order to prevent delay and confusion in providing existing borrowers and applicants with accurate information on loan and grant recipient supervision.

As proposed, various miscellaneous amendments are made to Chapter XVIII as follows:

#### **SUBCHAPTER A—GENERAL REGULATIONS**

#### **PART 1802—SUPERVISION OF BORROWERS [DELETED]**

1. Part 1802 of Subchapter A is hereby deleted.

#### **SUBCHAPTER H—PROGRAM REGULATIONS**

#### **PART 1930—GENERAL**

2. A new Part 1930 including a revision to the title of the Part, Subpart C is hereby proposed to read as follows:

#### **PART 1930—GENERAL**

##### **Subparts A and B—[Reserved]**

##### **Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients**

#### **PART 1930—GENERAL**

##### **Subpart A-B—[Reserved]**

##### **Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients**

##### **Sec.**

- 1930.101 General.
- 1930.102 Definitions.
- 1930.103–1930.104 [Reserved]
- 1930.105 Objectives of management and supervision.
- 1930.106–1930.107 [Reserved]
- 1930.108 Extent of management.
- 1930.109 Extent of supervision.
- 1930.110 Methods of supervision.
- 1930.111–1930.112 [Reserved]
- 1930.113 Borrower responsibilities.
- 1930.114–1930.116 [Reserved]
- 1930.117 Effective supervision.
- 1930.118 [Reserved]
- 1930.119 Supervisory visits.
- 1930.120–1930.121 [Reserved]
- 1930.122 Accounts and Records.
- 1930.123 [Reserved]
- 1930.124 Borrower reports, audits and analysis.
- 1930.125–1930.127 [Reserved]
- 1930.128 Labor housing grants.
- 1930.129 Rural housing site loans.
- 1930.130–1930.133 [Reserved]
- 1930.134 State Office records.
- 1930.135–1930.136 [Reserved]
- 1930.137 State supplements, guides, forms and other issuances.
- 1930.138–1930.140 [Reserved]
- 1930.141 Materials to be provided borrower/applicant.
- 1930.142–1930.150 [Reserved]

#### **Exhibits**

	Exhibit
Suggested Steps for FmHA Personnel in Conducting Annual Analysis of Rental Operations..	A
Review of Audit Reports.....	A-1
Multiple Housing Management Guide.....	B
Management Plan Requirements for FmHA Multiple Family Housing Projects.....	B-1
Requirements for Management Agreements.....	B-2
Suggested Housing Management Agreement for FmHA Multiple Family Housing Projects.....	B-3
Questionnaire for Management Agent of FmHA Multiple Family Housing Projects.....	B-4
Questionnaire for Owners of FmHA Multiple Family Housing Projects.....	B-5
Monthly Reports (Chart).....	B-6
Annual Reports (Chart).....	B-7
Miscellaneous Reports or Submittals (Chart).....	B-8
Rent Increases.....	C
Notice to Tenants of Proposed Rent Increase.....	C-1

#### **PART 1930—GENERAL**

##### **Subparts A-B—[Reserved]**

##### **Subpart C—Management and Supervision of Multiple-Family Housing Borrowers and Grant Recipients**

##### **§ 1930.101 General.**

This subpart prescribes the policies, authorizations, and procedures for management and supervision of the following farmers Home Administration (FmHA) loan and grant recipients:

- (a) Farm Labor Housing (LH).
- (b) Rural Rental Housing including congregate housing (RRH).
- (c) Rural Cooperative Housing (RCH).
- (d) Rural Housing Site Loans (RHS).
- (e) This subpart, with the exception of Exhibit C "Rent Increases," does not apply to individual type borrowers who did not sign a loan agreement. However, in the case of individual type borrowers who are delinquent on their loan payments or are not otherwise carrying out the objectives of their loans, the State Director may require compliance with any Sections of this regulation to assure that the objectives of the loan are carried out. For RHS borrowers, the following Sections of this subpart do not apply: § 1930.108, § 1930.124, § 1930.128, and § 1930.141.

##### **§ 1930.102 Definitions.**

(a) *FmHA*. "FmHA" means the United States of America acting through the Farmers Home Administration; it includes FmHA's predecessor agencies.

(b) *Office of the General Counsel (OGC)*. "OGC" means the Regional Attorney or the Attorney in Charge in the field office of the Office of the General Counsel of the United States Department of Agriculture.

(c) *Supervision*. "Supervision" includes the broad scope of guidance available through the FmHA to assist borrowers in carrying out the objectives

of the loan and in complying with FmHA regulations.

(d) *Management*. "Management" is the overall direction given by the owner or the owner's agent in meeting the needs of the tenants, maintaining the project, and providing sound and economical operation of the project.

(e) *Borrowers*. "Borrowers" means all individuals, partnerships, cooperatives, trusts, public agencies, private or public corporations and other organizations which have received a loan or grant from FmHA for LH, RRH, RCH, or RHS purposes.

(f) *Governing Body*. "Governing Body" means those elected or appointed officials of an organization or public agency type borrower responsible for the operations of the project.

#### §§ 1930.103-1930.104 [Reserved]

#### § 1930.105 Objectives of management and supervision.

(a) Each loan or grant made by FmHA is designed to attain specific objectives. Therefore, each borrower and grant recipient will be provided supervision to help in accomplishing the objectives of the loan or grant.

(b) To accomplish these objectives primary emphasis will be given to the following:

(1) Proper and efficient management policies as prescribed in Exhibit B of this subpart.

(2) Complying with agreements.

(3) Repaying loans on schedule.

(4) Maintaining security property.

(5) Protecting the interests of FmHA.

(6) Operating facilities in accordance with State and local laws and regulations.

(7) Maintaining accounts and records.

(8) Submitting reports and audits.

(9) Processing rent increases in accordance with Exhibit C of this subpart.

#### §§ 1930.106-1930.107 [Reserved]

#### § 1930.108 Extent of management.

In accordance with Exhibit B of this subpart, the borrower or the borrower's agent will develop a management plan for each project. The scope and complexity of this plan will be dependent upon size of project, type of project (e.g., senior citizen, family, labor housing) and other factors which may contribute to management success. It may be necessary to obtain management from other than the owner. If so, a management agreement is to be used to define the responsibilities of the management agent. This agreement must be accepted by the FmHA loan approval official. A suggested management

agreement is provided in Exhibit B-3 of this subpart.

#### § 1930.109 Extent of supervision.

All borrowers will be given guidance and advice to help assure successful completion and operation of facilities, compliance with their agreements and obligations, and protection of the FmHA's financial interest. Supervision does not relieve borrowers of their own responsibilities and obligations. Supervision starts with the first contact with the applicant and continues through the life of the loan or, in the case of a grant, until the requirements of the grant agreement have been fulfilled. Supervision of Multiple Family Housing borrowers is a primary responsibility of the District Director; however, additional supervision and guidance will be given by the Multiple Family Housing Coordinator, and/or other members of the State Office staff, as appropriate.

#### § 1930.110 Methods of supervision.

Supervisory methods used by FmHA employees include organizational and development planning; management planning; affirmative marketing; construction conferences; long-term, annual, and other periodic planning; accounts and records inspections and guidance; project inspections; attendance at membership and governing body meetings; analysis of accounting and audit reports; guidance by memorandums; and similar activities.

(a) *Applicants*. Prior to loan or grant closing, supervision will largely be conducted during conferences and meetings with prospective borrowers, members, organizing committees; governing bodies, officers, applicant's attorney, architects, and other authorized representatives. Examples are:

(1) Organizational meetings of interested persons to discuss needs, services available, owner obligations, and to establish steering or organizational committees.

(2) Preapplication and application conferences with applicants or their authorized representatives, governing body, architect, and attorney.

(3) Preconstruction conferences with applicants or their authorized representatives, architects, contractors, and others necessary to reach an understanding regarding responsibilities and the manner in which development will be performed.

(4) Preloan and/or grant closing conferences of the applicant, governing body, officers, manager, bookkeeper, attorney, and others concerned to review requirements of the loan resolution or agreement, closing

requirements, and management plan to establish responsibilities for the operation of the project. The applicant at this point should be made fully aware of the responsibilities entailed in assuring Fair Housing and/or Equal Opportunity requirements provided by title VI and title VIII of the Civil Rights Acts of 1964 and 1968.

(b) *Borrowers who have yet to demonstrate their ability and borrowers with problems*. When the borrower is establishing its operations, or for borrowers that are delinquent, or have other difficulties, supervisory guidance will include:

(1) Implementation and/or review for compliance with the management plan.

(2) Establishment and maintenance of a recordkeeping and reporting system.

(3) Compliance with the requirements of the loan agreement or loan resolution.

(4) Review of annual audit and budget requirements.

(5) Any other supervision as may be necessary to assure effective and successful operation of the project.

(c) *Borrowers who have demonstrated ability*. When the borrower has successfully completed its first full fiscal year of operations, is current with its payments, is in compliance with other loan or grant requirements, is maintaining the security in a satisfactory manner, and otherwise is progressing satisfactorily, supervision will consist of at least an annual review of budgets and reports in accordance with § 1930.124, and a bi-annual security inspection. Suggested steps for conducting a review are outlined in Exhibit A of this subpart. Supervision of grant only recipients will consist of at least the reviews and inspection outlined in § 1930.119.

#### §§ 1930.111-1930.112 [Reserved]

#### § 1930.113 Borrower responsibilities.

Borrowers should understand the difference between FmHA supervised credit and credit from other Federal, State, and conventional sources. Borrowers are expected to have the ability to analyze and plan their activities, initiate and carry out adjustments and improvements, maintain suitable records, meet their obligations, make required reports, and maintain and properly account for project income and security property. Borrower members should understand their organization and the responsibilities of its governing body. That understanding includes the prohibitions against discrimination because of race, color, religion, sex, national origin, marital status, age, physical or mental handicap (applicant

must have capacity to execute a legal contract) which accompany all such assistance from FmHA.

(a) *Borrowers with governing bodies.* Those elected or appointed officials comprising the governing body are responsible for:

(1) Knowing their responsibilities and obligations and conducting the affairs of the borrower so that the terms of its agreement(s) with FmHA will be fulfilled.

(2) Maintaining membership at the required level.

(3) Establishing and maintaining rules, regulations, rent schedules, fees, and other policies necessary for orderly operation of the project, payment of debts, and maintenance of required reserves.

(4) Preparing reports, audits, and other material required by FmHA for sound financial practices.

(5) Holding meetings as required by the organizational documents, and as otherwise necessary, to provide proper control and management of its operations, and to keep the membership informed.

(b) *Membership.* Members are responsible for full support of the project and operation by:

(1) Paying any dues, fees, and other required charges promptly.

(2) Electing responsible officials.

(3) Complying with organization rules and regulations.

(4) Attending annual and special meetings.

#### §§ 1930.114-1930.116 [Reserved]

#### § 1930.117 Effective supervision.

For effective supervision, FmHA employees who are responsible for making and servicing Multiple Family Housing loans must be familiar with the complexities of the various types of borrowers; communicate effectively with the borrowers, and, if applicable, borrower's management agent; and provide guidance in the operation and management of projects.

(a) *District Director.* District Directors supervise a wide range of borrowers, from the individual to public agencies. To provide successful supervision the District Directors will use supervisory methods which will be the most effective. This includes but is not limited to the following:

(1) Organize their work and the work of their staffs in order that time is used effectively.

(2) Emphasize to the borrower and/or the borrower's management agent that they, not FmHA, are responsible for managing the project, collecting rents, repayment of the loan on schedule, and

for compliance with any loan or grant agreement or resolution and other FmHA requirements.

(3) Monitor the borrowers' compliance with tax, insurance, bond, security, and reporting requirements of FmHA regulations and State laws.

(4) See that each borrower designates a representative to serve as its contact source.

(5) Become familiar with the borrower's bylaws or other rules and regulations when necessary to assure compliance with FmHA requirements.

(6) Provide governing bodies with suggestions for disseminating information that may be helpful in keeping the membership in touch with activities of the governing body to increase and maintain membership interest.

(7) Provide adequate advice and guidance to governing bodies as needed.

(8) Avoid any of the following:

(i) Try to run the borrower's business.

(ii) Take charge of the borrower's meetings.

(iii) Attempt to supervise the borrower through its attorney or architect.

(iv) Assume that in the absence of adverse complaints, the borrower is proceeding successfully.

(b) *State Director.* State Directors will:

(1) Coordinate and direct supervisory activities related to borrowers and perform other functions as prescribed by this Subpart.

(2) Provide guidance and leadership to assure that the State staff and District Directors thoroughly understand and carry out their responsibilities.

(3) Develop training programs necessary to assure that FmHA personnel are kept up-to-date regarding the most effective supervisory methods, that the proper time is allotted to supervision, and that borrowers receive supervision to the extent necessary to assure their success.

(4) Maintain necessary liaison with the OGC.

(5) Maintain necessary liaison with State and local authorities.

(6) See that State Office records are maintained to assure effective supervision.

(7) Prepare and publish state supplements and guidelines for effective supervision, if necessary.

(c) *State staff.* State staff members including Rural Housing loan officers, architects, and others responsible to State Directors for supervision of borrowers covered by this subpart will:

(1) Continuously monitor supervisory activities to assure that each borrower is receiving timely and effective supervision.

(2) Keep currently informed of the supervision being given and frequently check the status of borrowers.

(3) Train District Directors to effectively perform the required supervisory activities, and to provide guidance in sound operation and management policies.

(4) Post review closing of loans and grants to determine that they have been properly closed.

(5) Visit sufficient projects to assure that proper supervision is being provided.

#### § 1930.118 [Reserved]

#### § 1930.119 Supervisory visits.

(a) *Purpose.* District Directors and other FmHA officials will visit the project site, including the management office, as necessary to enhance accomplishment of the objectives of the loan or grant. Following are the major purposes for which visits may be made:

(1) To assist with satisfactory development of the project.

(2) To evaluate the management program of the project pursuant to Exhibit B of this subpart, such as:

(i) Adherence to the management plan.

(ii) Compliance with the management agreement when applicable.

(iii) Compliance with the Affirmative Fair Housing Marketing Plan.

(3) To review borrower records and verify information, such as:

(i) Tenant eligibility.

(ii) Tenant income.

(iii) Tenant selection criteria.

(iv) Waiting lists.

(v) Rental rates.

(vi) Other items as necessary.

(4) To inspect and ascertain proper maintenance and assure protection of the security for the FmHA loan.

(b) *Frequency.* Visits will be made when necessary to assure compliance with FmHA policies and objectives. The District Director after the first year of operation will make at least one visit every two years to each project. Planned visits will be included in the monthly work calendar. The visit shall be conducted with the borrower or its official representative.

(c) *Preparation.* The District Director will review the most recent monthly or annual reports, the running records, the correspondence file, and the District Office record to determine payment dates of taxes, insurance, and bond premiums. The loan payment status will also be noted.

(d) *Recording and reporting.* The results of each visit will be recorded in the running record and; when appropriate, a letter summarizing the

visit and outlining followup action may be directed to the borrower. Any serious violation will be reported in writing to the State Director with recommendations for corrective action.

(e) *Bi-Annual inspections.* The District Director will conduct at least a bi-annual inspection of each project with the borrower, manager or designated representative present. This inspection may be made simultaneously with a visit scheduled in accordance with this section. The results of the inspection will be documented in the running record and formally recorded on proposed Form FmHA 1930-8, "Year End Report and Analysis."

#### §§ 1930.120-1930.121 [Reserved]

#### § 1930.122 Accounts and records.

Borrowers and grant recipients are required to maintain such accounts and records as necessary to successfully conduct their operation, to meet the requirements of Federal, State and local laws and regulations, and to meet the terms of their agreements with FmHA, including such records on occupancy by race and/or ethnic origin that FmHA will need be able to measure the Fair Housing compliance posture of the borrower during the conduct of compliance reviews. Borrowers and grant recipients will be required to implement accounting and recordkeeping systems as may be prescribed by FmHA.

(a) *Types of records and accounts.* The borrower must keep accounts and records sufficient to provide accurate, permanent, and current information. In order to meet this requirement, the type and form of records and accounts must be determined prior to loan or grant approval. The person responsible for maintaining such records and accounts should be selected prior to loan or grant closing whenever feasible. The recordkeeping system must conform to FmHA requirements.

(b) *Recordkeeping guides.* The following items will be considered in establishing a recordkeeping system:

(1) Prepare accounting records required by this Subpart on a cash or accrual basis.

(2) Where Federal, State or local laws or regulations require a particular form of records, such records will also be kept.

(3) Some borrowers may prefer to have their auditors develop a recordkeeping system.

(4) If outside bookkeeping services are available, they may be used if the cost is reasonable. Management agents may also provide this service.

#### § 1930.123 [Reserved]

#### § 1930.124 Borrower reports, audits, and analysis.

In order that borrowers establish and maintain adequate business management practices, it is essential that a system of reports, and analysis of such reports, be established at the onset. Timely reports will furnish necessary information on which to make sound management decisions essential to efficient operations and provide FmHA with periodic reports that will indicate trends and reflect the type and extent of management assistance needed. Timely analysis of such reports will reveal potential problems and provide an opportunity for corrective action before such problems develop to the extent that they have an adverse effect on fiscal or operational conditions. All reports will pertain only to the FmHA financed project. All forms and Forms Manual Inserts necessary in making the required reports may be obtained from FmHA. The following reports will be required, and borrowers and grant recipients will be required to implement a uniform reporting system that may be prescribed by FmHA.

(a) *Monthly report.* (1) Each borrower will complete proposed Form FmHA 1930-8, "Monthly Report," the first month after: (i) Completion of a project or occupancy of any units when FmHA provides the construction financing, (ii) FmHA loan closing or occupancy of any of the units where interim financing is used, (iii) reamortization, (iv) transfer, (v) failure to make scheduled payment, or (vi) failure to make or maintain required transfers to reserve. Complete reports in accordance with the Forms Manual Insert (FMI). The District Director will forward one copy of the report to the State Director with comments within 15 days after the end of each month. The State Director will review and make any appropriate comments to the District Director.

(2) Monthly Reports are required through the borrower's first full fiscal year of operation. At the end of such fiscal year, the District Director may inspect the project and review the operation including the annual analysis and audit. Monthly reports may be discontinued after the first full fiscal year of operation when the District Director determines that: (i) The project is being operated and maintained in a satisfactory manner; (ii) an adequate accounting system is being maintained; (iii) payments to FmHA are on schedule; and (iv) the reserve account is on schedule except for authorized expenditures. Authorization to discontinue the monthly reports will be

made by the District Director in writing to the borrower with a copy to the State Director.

(b) *Annual reports.* Each borrower will submit, within 45 days following the close of its fiscal year, a report consisting of:

(1) An audit report or verification of accounts as required by paragraph (c) of this section.

(2) Proposed Form FmHA 1930-7, "Statement of Budget, Income and Expense," for the year being planned and the actual income and expenses for the previous year. The form will be completed in accordance with the proposed Forms Manual Insert (FMI).

(3) Exhibit F-5A, "Housing Allowances for Utilities and Other Public Services" to Part 1822 (FmHA Instruction 444.5) when required for the project.

(4) Proposed Form FmHA 1930-8, "Year End Report and Analysis," completed in accordance with FMI.

(5) Copies of the minutes of the annual meeting or other related material that the District Director may request.

(c) *Audit reports.* Annual audit reports complying with FmHA's "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees," which will be provided by FmHA, are required for each project as follows:

(1) For all borrowers with 21 or more units in one or more projects, an audit report will be prepared by a (i) Certified Public Accountant (CPA) or (ii) Licensed Public Accountant (LPA) licensed on or before December 31, 1970, except as outlined in paragraph (c)(5) of this section. The CPA or LPA may not be an individual or organization that is closely associated with the borrower in any manner that creates a possible conflict of interest. For example, the CPA or LPA cannot be an employee of the borrower or a member, stockholder, partner, principal, or have any interest in the borrower organization.

(2) For all borrowers with 20 or less units, an audit will not be required except as outlined in paragraph (c) (3) of this section. The borrower will, however, provide a verification by a competent individual who is independent of the borrower or by a committee of the membership not including any officer, director, or employee of the borrower on proposed Form FmHA 1930-8.

(3) The State Director or District Director may, for good cause, require that the account of any borrower be audited by a CPA or LPA.

(4) The State Director may authorize the initial audit to cover a period up to 18 months for new projects operating for a partial year.

(5) The State Director may also waive the CPA or LPA audit requirement for not more than one successive year in a specific case providing: (i) The borrower submits a written request for the waiver; and (ii) the FmHA approved budget for the project includes a typical and reasonable fee for the audit but the negotiated cost of the audit will increase the monthly per unit rental rate by more than \$2.00; and (iii) the required reports, including a CPA or LPA audit, were properly submitted for the previous years' operations; and (iv) the borrower provides a verification by a competent individual who is independent of the borrower.

(6) The audit report should be submitted as a part of the annual report, but in all cases should be submitted as soon as possible after the close of the borrower's fiscal year.

(d) *Annual analysis.* The business of each borrower will be scheduled for analysis each year not later than 60 days following the end of the borrower's fiscal year and will be completed except for extenuating circumstances such as the borrower's failure to provide the required information on time.

(1) *Preparation for the analysis.* Not later than 30 days prior to the end of the borrower's fiscal year, the District Director will:

(i) Notify the borrower of the required reports, the date such reports are due, and provide the borrower with necessary guides and forms for use in preparing such reports.

(ii) When applicable, such as a loan to a new nonprofit organization, see that the borrower properly plans for its annual meetings; see that it will be held on the correct date and plan to attend the annual meeting of nonprofit organizations, unless the borrower has progressed as described in § 1930.110(c).

(iii) Arrange to conduct an inspection of the project with the borrower or the borrower's representative so as to comply with the frequency of visits contained in 1930.119(b).

(2) *Conducting the analysis.* The analysis will be conducted by the District Director as soon as possible after the required reports are submitted by the borrower. It is not necessary that the borrower be present during the actual analysis provided the information required by Part IV of proposed Form FmHA 1930-8 can be completed from the District Director's knowledge of the operation. The District Director should review each step listed in Exhibit A of this Subpart when conducting the

annual analysis and carefully document the results in a memorandum or in the borrower's case file. Exhibit A-1 should also be reviewed when analyzing the results of the required audit reports to determine that the reports are in compliance with Agency regulations. Comments and recommendations should also be recorded in the appropriate section of the analysis report.

(e) *Distribution of reports and annual analysis information.* The information obtained in accordance with this subpart will be distributed in accordance with Exhibits B-6 and B-7 of this Subpart.

(f) *State Director's review of annual analysis.* Upon receipt of the items listed in paragraph (b) of this section the State Director will:

(1) Review the information submitted, obtain any required modifications, approve proposed Form FmHA 1930-7 and provide comments and recommendations by memorandum to the District Director. The State Director may delegate the authority to approve budgets to State Office staff members and to District Directors.

(2) Forward the following items to the National Office during the first 2 years of the borrower's operation:

(i) Copy of the approved proposed Form FmHA 1930-7 and attachments.

(ii) Copy of proposed Form FmHA 1930-8.

(iii) Copy of the State Director's memorandum to the District Director.

#### §§ 1930.125-1930.127 [Reserved]

#### § 1930.128 Labor housing grants.

In addition to the supervision provided in connection with LH loans, recipients of LH grants will receive supervision to assure that the terms of the grant agreement and other objectives of the LH grant are carried out. This supervision will be continued for a period of 50 years from the date of the grant agreement unless supervision is terminated by FmHA regulations at an earlier date. Comments on these points will be included in appropriate reports, including assurance that:

(a) The rents are reasonable.

(b) The project is operated as a community service for the benefit of the tenants.

(c) Domestic farm laborers are given absolute priority in occupancy.

#### § 1930.129 Rural housing site loans.

For RHS loan borrowers the following additional supervisory action will apply to assure that the terms of the loan resolution and loan objectives are carried out:

(a) Review of the site development account records for compliance with authorized loan expenditures.

(b) Work with the borrower on the adjustment of sales price of the developed lots as they are being sold to assure adequate income to repay the loan, pay taxes, accrued interest and any other authorized debt or expenditures.

(c) Determine that lots are sold only to eligible buyers.

(d) Work closely with the borrower to enhance the sale of all lots prior to the due date of the note.

(e) Should the borrower fail to repay the loan as agreed, the District Director should submit a report to the State Director within 30 days containing the following information:

(1) The status of the account, number of lots unsold, and reasons for the problem.

(2) Prospects of selling lots to eligible buyers and a target date as to when this can be accomplished, if feasible.

(3) General comments and recommendations for future servicing of this account. Where necessary, liquidation may be recommended.

(f) State Directors will take the following actions in connection with problem RHS accounts:

(1) Provide additional guidance and assistance as necessary. If the proposal for selling the remaining lots is feasible, is within FmHA authorities, and the account will likely be paid in full within one year, the State Director may continue with the loan until the lots are sold.

(2) Where no satisfactory proposal for selling the remaining lots can be developed, the account will be handled in accordance with Part 1955, Subpart A of this chapter for liquidation.

#### §§ 1930.130-1930.133 [Reserved]

#### § 1930.134 State office records.

State Directors will maintain records as necessary to assure that the requirements of this Subpart are met. Proposed Form FmHA 1930-9, "Multiple Family Housing Activity Card," will be maintained for each loan and/or grant recipient.

#### §§ 1930.135-1930.136 [Reserved]

#### § 1930.137 State supplements, guides, forms, and other issuances.

The State Director may issue State supplements to this Subpart as necessary to assure the successful operation of the program. The State Director, with the assistance of the OGC, may supplement procedures or exhibits as set out in this subpart to the extent necessary to enable borrowers to



comply with the applicable provisions of State laws. State supplements of this procedure require National Office approval. Under no circumstances will State forms be developed as replacements for the forms referred to in this subpart.

§§ 1930.138-1930.140 [Reserved]

§ 1930.141 Materials to be provided borrower/applicant.

In order to enable borrowers and applicants to meet the intent of this Subpart, they will be supplied the following FmHA exhibits and materials:

- (a) Exhibit B and Exhibits B-1 thru B-8 of this Subpart.
- (b) Exhibits C and C-1 of this Subpart.
- (c) Exhibits J, J-1 and J-2 of Part 1822, Subpart D (FmHA Instruction 444.5) of this chapter and Form FmHA 444-29, Project Worksheet for Interest Credit and Rental assistance.
- (d) Exhibit R of Part 1822, Subpart D (FmHA Instruction 444.5) of this chapter.
- (e) Booklet entitled "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees."
- (f) The following forms and FMT's—
  - (1) Proposed Form FmHA 1930-7 "Statement of Budget, Income and Expense" and attachment Exhibit F-5A of Part 1822 Subpart D (FmHA Instruction 444.5) if applicable.
  - (2) Proposed Form FmHA 1930-6, "Monthly Report."
  - (3) Proposed Form FmHA 1930-8, "Year End Report and Analysis."
  - (4) Form FmHA 444-7, "Interest Credit and Rental Assistance Agreement."
  - (5) Form FmHA 444-29, "Project Worksheet for Interest Credit and Rental Assistance."
  - (6) Form FmHA 444-9, "Multiple Housing Certification and Payment Transmittal."
  - (7) Form FmHA 444-8, "Tenant Certification."
  - (8) Form FmHA 410-5, "Request for Verification of Employment."

§§ 1930.142-1930.150 [Reserved]

Exhibit A—Suggested Steps for FmHA Personnel in Conducting Annual Analysis of Rental Operations

*I. Examine the Condition of the Records To Determine That:*

- A. Required records are being properly maintained in accordance with loan resolution or agreement.
- B. Decisions of officials are being entered in the minutes book, if applicable.
- C. Financial transactions are recorded as they occur in a complete and orderly manner in appropriate books.

D. Any membership or stock transfers have been approved by FmHA as required and are recorded.

E. The records of accounts are maintained by qualified persons.

F. The records are audited by an auditing committee or qualified accountant as required.

*II. Study the Financial Progress:* Compare current financial condition and net worth with previous years to discover any trends, for example:

- A. Has cash carryover increased or decreased?
- B. Are the debts greater or less?
- C. Is the net worth greater or less?
- D. Are accounts receivable greater or less?
- E. Are collection provisions being enforced?

F. Are reserve and other required funds or accounts properly maintained?

*III. Study the Statement of Income and Expenditures for the Past Year:* Compare it with the budget for the past year and the same statement for previous years.

A. Were rents collected sufficient to produce the required revenues for planned expenditures?

B. Were actual expenditures significantly different from those budgeted?

C. Were the expenditures sufficient to adequately maintain the project?

D. Were any essential items of maintenance deferred during the past year?

E. Were payments made on debts in the proper amounts and on the dates agreed to?

F. If the borrower is operating on a limited profit basis, did net cash return exceed the amount permitted in the loan agreement or loan resolution?

*IV. Study the Budget for the Next Year:* Compare it with the statement of income and expenditures for the past year, taking into consideration any known increase or decrease in operating expenses for the planned year.

A. Are proposed expenditures adequate for normal maintenance and operation of the project?

B. Are proposed fees to be paid to firms closely associated with the borrower typical, reasonable, and earned for the services to be provided?

C. Does the budget make provision for financing maintenance deferred from the previous year?

D. Does it provide for the required financial reserves?

E. Is planned revenue adequate to cover planned expenditures?

F. Will the budget and planned operating practices correct any deficiencies in the past year's operations?

*V. Study The Audit:* Compare it with the audit from the previous year, noting any significant changes affecting the borrower's operations. Exhibit A-1 may be used as a guide.

*VI. Determine Whether or Not The Borrower Has:*

- A. Followed the management plan.
- B. Filed tax returns and other required State reports.
- C. Renewed fidelity bonds and insurance policies.
- D. For borrowers with governing bodies:

1. Held regular board and membership meetings.

2. Conducted the affairs along sound business lines.

E. Made a change in any organizational documents without FmHA consent.

F. Made a change in the plans for management and operation of the project without FmHA consent.

G. Made a change in the membership or interest in ownership without FmHA consent.

*VII. Summary:* Summarize major observations and decisions reached as the result of the review and record on proposed Form FmHA 1930-8, "Year End Report and Analysis."

**Exhibit A-1—Review of Audit Reports**

*I. Purpose.* To present a general guide for use of FmHA staffs in the review of independent accountants' audit in order to obtain maximum benefit from these audits. The procedures are designed to provide uniformity in the audit review, improve loan program servicing and help to promote better independent audits.

*II. General.* FmHA guidelines for independent audits are detailed in the booklet, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees," (hereinafter called Audit Guide and available from FmHA). This Audit Guide, along with other instructions, is designed to protect the security of Government loans. The review of the financial and financially related information in the audits must be performed from a technical standpoint in a prompt manner so that the facts and conclusions are readily available for analysis; only then can results be used effectively for management purposes and help to insure improved audit practices.

*III. Scope.* The review should include:

A. A determination of the adequacy of the audit in relation to FmHA regulations and Audit Guide.

B. Interpretation of information included in the audit.

C. Preparing a letter to the borrower on any missing or adverse audit data.

D. Informing appropriate FmHA offices of review results and recommendations.

*IV. Review Procedures To Be Followed.*

A. *General.* The individual professional judgement of the reviewer should be used at all times. Considerations and decisions requiring the exercise of judgment should be used in the following:

- 1. Circumstances peculiar to the borrower.
- 2. Degree of importance attached to each item questioned.
- 3. Number of exceptions.
- 4. Whether the exceptions relate to the auditors work or the borrower's records and operations.
- 5. If specific action is to be requested of the borrower.
- 6. Whether or not the report as a whole is acceptable.

B. *Review and Procedure.* 1. *Specific.* a. Determine if the audit was performed by a Certified Public Accountant or Licensed Public Accountant licensed on or before December 31, 1970.

b. Does the audit cover the most recent 12 months since the previous audit?

c. Was the audit received within 45 days of the borrower's year end?

*2. Evaluation checklist for audit reports.*

The "Evaluation checklist for Audit Reports" which is part of this Exhibit is designed to systematically record and reveal the audit findings. Information tallied on this form is a good indication of whether or not additional contact needs to be made with the borrower.

*3. Previous audits and correspondence.*

Reference to the prior audit and any correspondence concerning it can be most helpful in the current review. Determine whether corrections requested in the previous year, if any, have been made, and whether the auditor has complied with previous suggestions for improvement in the audit report, if any.

*C. Preparing the audit review letter.*

*General.* After completion of the "Evaluation Checklist for Audit Reports" which follows and applying personal judgment, a decision must be made on whether or not to prepare an audit review letter similar to that shown as part of this exhibit.

a. If the audit fully complies with the Audit Guide and instructions, a letter is not necessary.

b. If the audit substantially meets the requirements and is lacking in only a few points, ask the borrower to have the auditor furnish this additional information.

c. Audits which are unacceptable should be returned to the borrower for full compliance, indicating the reasons.

BILLING CODE 3410-07-M



## Exhibit A-1

## EVALUATION CHECKLIST FOR AUDIT REPORTS

		State
Name of Borrower	County	
Address	Case No.	
Name of Auditor	Project No.	
Date of Audit Report	Period Covered	

1. Auditor's Opinion (Section III\* - Check one)
  - (a) Unqualified
  - (b) Qualified
  - (c) No Opinion
2. Financial Statements (Section II C\*)
  - (a) Balance Sheet
  - (b) Income and Expense
  - (c) Changes in Financial Position
  - (d) Net Worth Reconciliation
  - (e) Comparative Statements
3. Required Supplemental Letter (Section II D\*)  
or Comments on the Following:
  - (1) A statement that generally accepted auditing procedures were used but if not, which were omitted.
  - (2) Evaluation of system of internal control.
  - (3) Adequacy of accounting records and outline any recommendations for improvement.
  - (4) Adequacy of physical control over assets.
  - (5) Financial compliance with loan agreement including maintenance of cash reserves.
  - (6) Financial reports in audit are in agreement with accounting records of organization. Indicate any material or unusual adjustments.
  - (7) State whether deposit funds are in institutions insured by the Federal Government.
  - (8) List kinds and amounts of insurance coverage.
  - (9) Indicate if borrower is exempt from Federal income tax.
  - (10) For unsatisfactory conditions disclosed by audit, state their nature and, if possible, recommend corrective action.
  - (11) List names of members, users or renters delinquent over 60 days and the amount of each delinquency.
  - (12) Indicate any other information that the auditor believes necessary for full disclosure.

NOTE: If information is provided by the auditor which answers these items, although not in supplemental letter, it is acceptable.

4. Comments by auditor on previously recommended items which have or have not been implemented by borrower (Section IV\*).
5. Was report received within 45 days of the end of the borrower's operating year?
6. Was audit performed by a CPA or LPA? If by an LPA verify that the LPA was licensed on or before December 31, 1970.

\* References to "Sections" indicate the appropriate section in the FmHA Audit Guide booklet entitled "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees."

**Exhibit A-1—Example Audit Review Letter**

Dear \_\_\_\_\_:

We have reviewed your audit report for the period \_\_\_\_\_ to \_\_\_\_\_, prepared by \_\_\_\_\_. This review was made in accordance with current FmHA regulations and the Audit Guide entitled "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees." Based on this review, your audit:

1. ☐ Is acceptable. However, the auditors recommendations concerning \_\_\_\_\_ should be implemented prior to next year's audit.

2. ☐ Is acceptable but did not include comparative-type financial statements as indicated in Section II C of the Audit Guide. Please inform the auditor to prepare such statements next year.

3. ☐ Is acceptable but was not submitted within 45 days after the end of the year. Please insure that next year's audit is forwarded before \_\_\_\_\_.

4. ☐ Substantially meets all the requirements. However, the following items were omitted as detailed in the Audit Guide, Section II D, "Required Supplemental Letter." Please have your auditor comment on the number(s) circled and forward a copy to us. These numbers correspond to the 12 items listed in Section LL D of the Audit Guide.

5. ☐ Is returned as unacceptable for the following reason(s). Please have the auditor prepare your audit in accordance with the Audit Guide.

- a. ☐ It was prepared without audit.
- b. ☐ The following financial statements were omitted: (Audit Guide, Section II C)
  - ☐ Balance Sheet
  - ☐ Statement of Income and Expense
  - ☐ Statement of Change in Financial Position
  - ☐ Reconciliation of Net Worth
  - c. ☐ The auditor's opinion. (Audit Guide, Section III)
  - d. ☐ Other
  - 6. ☐ Other.

District Director

This guide will be prepared in the State Office for the District Director's signature.

**Exhibit B—Multiple Housing Management Guide****Table of Contents**

- I. Purpose.
- II. Definitions.
- III. Rent subsidy Opportunities.
- IV. Management Plan.
- V. Renting Procedure.
- VI. Verification and Certification of Tenant Income.
- VII. Leases.
- VIII. Rent Collection.
- IX. Rent Increases.
- X. Maintenance.
- XI. Record Maintenance and Reporting.
- XII. Management-Tenant Relations.
- XIII. Termination of Lease and Eviction.
- XIV. Security Servicing.

**Exhibits****Title and Exhibit**

- Management Plan Requirements for FmHA Multiple Family Housing Projects—B-1
- Requirements for Management Agreements—B-2
- Suggested Housing Management Agreement for FmHA Multiple Family Housing Projects—B-3
- Questionnaire for Management Agent of FmHA Multiple Family Housing Projects—B-4
- Questionnaire for Owners of FmHA Multiple Family Housing Projects—B-5
- Monthly Reports (Chart)—B-6
- Annual Reports (Chart)—B-7
- Miscellaneous Reports or Submittals (Chart)—B-8

**Exhibit B—Multiple Housing Management Guide**

**I. Purpose:** This management guide is for the use of Farmers Home Administration (FmHA) staff and multiple housing borrowers and applicants and their management agents and resident managers. The subject matter is in chronological stages of management considerations. Several exhibits are also included to provide further clarification and guidance. These guidelines are intended to assist in the successful operation of FmHA financed rental projects.

**II. Definitions:**

**A. Forms Manual Insert (FMI).** A type of directive which includes a sample of the form and complete instructions for its preparation, use and distribution.

**B. Management Plan.** The applicant's written proposal for the overall operation and management of the rental project.

**C. Management Agent.** The firm or individual engaged by the borrower to manage the project in accordance with a written agreement.

**D. Management Agreement.** The written agreement between the borrower and management agent setting forth the management agent's responsibilities and fees for services.

**E. Management Fee.** The total cost of the management service paid by the borrower directly or indirectly and includes all items in the management agreement.

**F. Project Manager.** The individual(s) and/or firm(s) responsible for management of the project; could be the owner and/or management agent and/or resident manager.

**G. Resident Manager.** The individual employed by the borrower or the management agent who lives on the site and is responsible for the day-to-day operations of the project.

**H. Rental Agent.** The individual responsible for the leasing of the units. This individual may be hired by the owner or management agent.

**I. Caretaker.** The individual(s) employed by the borrower or management agent to handle normal maintenance and upkeep for the project.

**J. Senior Citizen.** A person 62 years of age or over; and may be either the tenant or co-tenant.

**K. Handicapped Person.** A person, or in the case of a household, either the tenant or co-tenant, who does not need constant

supervision or constant medical or nursing care, but meets the qualifications of either of the following paragraphs:

1. A person who has an impairment which (a) is expected to be of long-continued and indefinite duration, (b) substantially impedes his or her ability to live independently, and (c) is of such a nature that such ability could be improved by more suitable housing conditions.

2. A person who is developmentally disabled. A developmentally disabled person is handicapped with a severe, chronic disability which: (a) is attributable to a mental or physical impairment or combination of mental and physical impairments; (b) is manifested before the person attains age 22; (c) is likely to continue indefinitely; (d) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic sufficiency; and (e) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

**L. Household.** (1) One or more persons who maintain or will maintain residency in one rental unit.

**M. Annual Income.** Planned income of the tenant, co-tenant, and spouse of either, and all other adults who live, or propose to live, in the rental unit within the next 12 months.

**1. Income Included.** All net business income and gross income from wages, salaries, commissions, pensions, social security, welfare, GI Bill, fellowships, scholarships, assistantships, unemployment compensation, alimony, and all other sources, except as indicated in paragraph M 2 below, must be counted.

- a. Welfare, Social Security, child support payments, and other payments made on behalf of minors will be included in annual income.

- b. All expected overtime and bonus income which can reasonably be considered dependable.

- c. Proceeds from the sale of equipment, mineral rights or real estate sold under a long-term contract (usually more than 3 years).

- d. Projected business losses will be considered as "O" in determining annual income.

**2. Exempted Income.** The following income will not be included:

- a. Earnings from employment or income from GI Bill, fellowships, scholarships, or assistantships for schooling received by a *full time student* who is not the tenant, co-tenant, or spouse of either.

- b. Proceeds from the sale of equipment, mineral rights, or real estate sold under a short-term contract (usually 3 years or less).

- c. Cash value of food stamps, real estate tax exemptions, or similar types of assistance.

- d. Payments received for the care of foster children or services rendered as a volunteer on a project sponsored by any of the following programs:

(1) Retired Senior Volunteer Program.  
 (2) Foster Grandparent and Older American Community Service Programs (as either a foster grandparent, senior health aid, or senior companion).

(3) National Volunteer Programs to Assist Small Business and Promote Volunteer Service by Persons with Business Experience.

(4) Peace Corps.

(5) VISTA.

(6) Any other volunteer program sponsored by ACTION.

e. Allowances paid by the Department of Labor to CETA participants. Wages paid by the employers of CETA workers will be included.

f. The income of a tenant, co-tenant, or spouse of either not living in the rental unit for reasons of broken marriage or separation, and not because of work assignment or military order when:

(1) Legal papers have been filed with the appropriate court to commence divorce or legal separation proceedings provided the tenant or co-tenant agrees that should the spouse begin to live in the rental unit, that spouse's income will then be counted toward annual income and the tenant or co-tenant may be required to vacate the unit if no longer eligible from an income standpoint.

(2) Papers have not been filed to commence divorce or legal separation proceedings provided the spouse has been living apart from the tenant or co-tenant for at least six months, and the tenant or co-tenant is informed and agrees that should the spouse begin to live in the rental unit, that the spouse's income will then be counted toward annual income and the tenant or co-tenant may be required to vacate the unit if no longer eligible from an income standpoint.

g. The income of the tenant, co-tenant or spouse of either no longer living in the unit for reasons of health. The person must be ill to the extent that he/she can no longer live in the unit and is residing in an institution such as a nursing home and is not expected to return to the unit for the foreseeable future.

3. *Deductions From Income.* In determining the tenant's annual income, the following deductions may be made:

a. A deduction may be made in the same manner as outlined in Internal Revenue Service (IRS) regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the trade or business of the tenant, co-tenant, or spouse of either. An Itemized schedule must be provided showing the depreciation claimed. The schedule should be consistent with the amount of depreciation actually claimed for these items for Federal income tax purposes.

b. A deduction may be made in the same manner as outlined in IRS regulations for necessary work-related expenses actually paid by the employee in excess of the amount reimbursed by the employer. The deduction must be reasonable and, in the judgment of the approving officials, should be deducted from an employee's income to reflect annual income on an equal basis with other employed persons. Deductions, however, are not permitted for the following:

(1) Transportation to and from work.

(2) Cost of meals incurred on one-day business trips.

(3) Educational expenses except those incurred to meet the minimum requirements for the employee's present position.

(4) Fines and penalties for violation of laws.

c. A maximum aggregate deduction of \$400 per month may be made for child care, disabled dependent care, or care of an incapacitated spouse of a tenant or co-tenant. The deduction will be limited to expenditures actually paid to enable the tenant or co-tenant to be gainfully employed. The reason for any deduction must be recorded in detail and attached to form FmHA 444-8, "Tenant Certification." Payments for these services may not be made to persons whom the borrower is entitled to claim as personal deductions for income tax purposes.

N. *Adjusted Annual Income.* This is the current annual income of the household as defined in paragraph II M of this Exhibit, less 5 percent and less an additional \$300 for each minor person, (excluding the tenant, co-tenant and foster children), who is a member of the household and lives in the rental unit.

O. *Adjusted Monthly Income.* This is the amount obtained by dividing the adjusted annual income by 12.

P. *Low-Income Household.* A household having an adjusted annual income within the maximum limit stated in Exhibit C of Part 1822 Subpart A (FmHA Instruction 444.1).

Q. *Moderate-Income Household.* A household having an adjusted annual income within the maximum limit stated in Exhibit D of Part 1822 Subpart A (FmHA Instruction 444.1)

R. *Domestic Farm Laborers.* Persons who receive a substantial portion of their income as laborers on farms in the United States, Puerto Rico, or the Virgin Islands and either (1) are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence, and as further defined in FmHA Instruction 1944-D.

S. *RRH* means Rural Rental Housing loans.

T. *RCH* means Rural Cooperative Housing loans.

U. *LH* means Labor Housing loans and/or grants.

III. *Rent Subsidy Opportunities:* Because of high housing costs, it is often extremely difficult to house persons with low and moderate incomes without some type of rental subsidy. The subsidy programs available should be considered at the time of developing a project proposal and, in some cases, can be utilized in an existing FmHA financed project where persons are required to pay more than 25 percent of their adjusted income for the cost of rent and utilities. These subsidy programs are as follows:

A. *FmHA Interest Credit—Section 515 Loans.* Regulations are contained in Exhibit J to Subpart D of Part 1822 (FmHA Instruction 444.5).

1. Plan I—Available only to broadly-based nonprofit corporations and consumer cooperatives.

a. Occupancy is limited to low-income nonsenior citizens, low- and moderate-income senior citizens, and low- and moderate-income handicapped persons.

b. Budgets and rental rates are based on a 3 percent loan. The difference between the

note rate of interest and the 3 percent interest is made up in the form of an interest credit to the borrower's account.

c. Normally this plan would only be considered during the development of a new project proposal when greater benefits can not be achieved for the prospective tenants under interest credit Plan II.

2. Plan II—Available to broadly based nonprofit corporations, consumers cooperatives, State or local public agencies, or to profit organizations and individuals operating on a limited profit basis.

a. Occupancy is limited to low- and moderate-income persons, except those senior citizens and handicapped persons not meeting the definition of a low- or moderate-income person may continue occupancy if they were tenants prior to the issuance of this regulation.

b. Budgets for the housing are prepared for two rental rates—basic and market. Minimum (basic) rental rate is based on a 1 percent loan. The maximum (market) rental rate is based on the interest rate shown in the promissory note.

c. Tenants pay 25 percent of their adjusted income, less a utility allowance if applicable, or the basic rental rate, whichever is the greater. In no case will the tenant pay more than the market rental rate.

d. Existing rural rental housing borrowers whose loans were approved subsequent to August 1, 1968, may convert from Plan I to Plan II, or if presently profit motivated, convert to Plan II by executing a new or amended loan resolution or loan agreement and an interest credit and rental assistance agreement in accordance with Exhibit J of Subpart D of Part 1822 (FmHA Instruction 444.5).

B. *Rental Assistance Program—FmHA.* This is a subsidy program available to RRH, RCH, and LH borrowers to assist low-income tenants in paying their rent. Rental assistance is not authorized for tenants whose income is above the low-income rate. LH borrowers who are individual farmowners or association of farmers cannot obtain rental assistance. RRH and RCH borrowers with loans approved after August 1, 1968, must be or change to operating under Interest Credit Plan II.

1. Occupancy requirements are the same as for Plan II borrowers.

2. Tenants occupying a unit and eligible to receive rental assistance pay 25 percent of their adjusted income less an approved utility allowance when applicable. The difference between the amount of rent paid by the tenant and the basic rent (for labor housing the established FmHA approved rental rate) is paid to the borrower as a rental assistance payment.

3. Existing multiple housing borrowers including eligible labor housing borrowers may request to participate in the program by contacting the appropriate FmHA District Office. Multiple housing loan applicants wanting to participate should make the request a part of their loan application.

4. Regulations for this program are contained in Exhibit R to Subpart D of Part 1822 (FmHA Instruction 444.5).

C. *Department of Housing and Urban Development (HUD)—Section 8 Housing*

**Assistance Payments Program.** This program is similar to the FmHA subsidy rental assistance program but is administered by HUD. There are two programs, one for new construction and rehabilitation and another for existing housing. The FmHA and HUD have entered into a Memorandum of Understanding (See Exhibit O-1 to Subpart D of Part 1822 (FmHA Instruction 444.5) wherein HUD sets aside units for use by FmHA for new construction financed with rural rental housing loans. Additional information on the HUD Section 8 program is contained in Exhibits O and P to Subpart D of Part 1822 (FmHA Instruction 444.5).

#### IV. Management Plan:

**A. General.** A comprehensive management program is essential to the successful operation of a project. A written plan is the primary ingredient which should describe the detailed policies and procedures in managing the project. A management plan is required for all FmHA multiple housing projects. The detailed plan must be submitted to FmHA with the loan application, (Form AD 625, "Application for Federal Assistance"). Exhibit B-1 of this Subpart outlines the requirements of the plan. The following items should be addressed in the plan, some of which are discussed later in more detail:

1. *The relationship between owner and management agent (if applicable).*
2. *Personnel policy and staffing arrangements.*
3. *Publicizing and achieving early occupancy and affirmative marketing.*
4. *Tenant certification and verification of income.*
5. *Tenant admissions policies and leasing policies.*
6. *Rent collection.*
7. *Rent increases.*
8. *Maintenance.*
9. *Records maintenance and reports.*
10. *Energy conservation measures.*
11. *Management-tenant relations.*
12. *Termination of leases and evictions.*
13. *Management agreement (if applicable).*

**B. Management Agreement.** The management agreement is a primary management ingredient and bears a close relationship to the management plan. Requirements of a management agreement are listed in Exhibit B-2 of this Subpart. A management agreement is required except in cases where the borrower (owner) fills the role of manager. The management agreement is the primary document by which the management agent is guided and evaluated. Exhibit B-3 of this Subpart is a suggested management agreement. There are two types of agreements acceptable to FmHA, described as follows:

1. The owner hires a professional management agent to operate the project. The management agent may provide a resident manager for onsite management and/or caretaker when justified by the size of the project. A qualifications statement by the management agent is required in accordance with Exhibit B-4 of this Subpart.

2. The owner maintains all or a part of the management role. A qualifications statement by the owner in accordance with Exhibit B-5 of this Subpart is also required. The owner may use the services of a resident manager in

providing onsite management and/or services of a caretaker when justified by the size of the project.

**C. Responsibility.** Regardless of the management system used, the management plan and management agreement or contract must be based on applicable provisions of local, State, and Federal statutes and the regulatory requirements of the loan used to finance the project. Regardless of the authority delegated by the owner to the management agent, the owner remains totally responsible to FmHA for the project.

**D. Compensation.** 1. *Projects with management agent.* The amount of compensation is to be negotiated between the owner and the management agent. The amount of compensation should be based on a percentage of gross rents collected for each occupied unit. This should include any rental subsidy paid by the Government. The percentage may vary from project to project depending upon size, complexity, services to be provided, type of project, and other pertinent factors. Normally, when the services of a resident manager are to be utilized, the management agent's compensation will include the cost of the services of the management agent's resident manager. An initial rent-up fee payable on a per unit basis will normally not be permitted. If the State Director determines it is necessary to pay rent up fees to assure early occupancy of the units he/she may authorize such fees but only when the fee is earned, paid for services rendered, justified, and customary for the area. The rate of compensation shall be comparable to rates charged for similar services provided for other comparable projects in the area. This authority will not be used to permit borrowers to utilize their 2 percent initial operation and maintenance investment that is not needed for other purposes. The management agreement must be specific as to services to be provided that are not borne by the management agent, such as:

- a. Legal fees.
- b. Auditing fees.
- c. Repair and maintenance costs.
- d. Fidelity bond premiums.

2. *Owner managed projects.* Only when FmHA determines that the owner has the necessary management capabilities the owner will be authorized to manage the project. A typical management fee may be charged as an expense to the project. The compensation must be reasonable, earned, and not exceed the normal cost of similar management services for the project, had such services been provided by an independent management agent. This compensation will never include costs normally included in the project budget for other allowable operation and maintenance expenses such as: caretaker, resident manager, recordkeeping, etc.

**E. Occupancy by a Resident Manager and/or Caretaker.** Whether a project is managed by a management agent or by the owner, the onsite services of a resident manager and/or caretaker may be used when justified by the size of the project. A project must generally be of 12 or more rental units in order to justify the services of a resident manager. For larger projects, FmHA may require an onsite

resident manager and/or caretaker. It is desirable but not mandatory that the resident manager and/or caretaker meet the tenant eligibility requirements for occupancy in the project. If a full-time resident manager and/or caretaker is not needed, these functions should, if at all possible, be performed by an eligible tenant.

1. *Calculation of rental rate.* For the purposes of calculating an appropriate rental rate for a resident manager and/or caretaker and for determining the borrower's appropriate payment on Form FmHA 444-29, "Project Worksheet for Interest Credit and Rental Assistance," the following policies will apply:

a. Compensation received by the resident manager and/or caretaker for services rendered should be reflected in the operation and maintenance expenses of the project, and be included in the annual income of the resident manager and/or caretaker. This will include the value of any in-kind compensation received. When a living unit is provided at no cost or at a reduced cost to the resident manager and/or caretaker, the rental value of that rental unit for all projects except those operating under interest credit Plan I will be calculated at the FmHA approved market rental rate for the size of unit occupied. For interest credit Plan I projects, the value of the rental unit will be calculated at the FmHA approved market rental rate for the size of unit occupied, plus 25 percent.

b. If the resident manager and/or caretaker meets the tenant eligibility requirements for the type of project being occupied, appropriate rental rate will be the rate established for an eligible tenant in accordance with paragraph V B of this exhibit.

c. If the resident manager and/or caretaker does not meet the tenant eligibility requirements for the type of project being occupied because the resident manager's and/or caretaker's adjusted annual income exceeds the maximum income limits, the resident manager's and/or caretaker's appropriate rental rate for all projects except those operating under interest credit Plan I will be the FmHA approved market rental rate for the size of unit occupied. For interest credit Plan I projects, the appropriate rental rate will be the FmHA approved market rental rate for the size of unit occupied, plus 25 percent.

2. *Owner Occupancy.* Since homeownership is not an objective of the FmHA Multiple Housing loan programs, owners will not be permitted occupancy in a project unless the owner will manage the project (rather than hiring a management agent), the size of the project justifies the services of a resident manager and/or caretaker, and the owner is determined capable and will perform these services.

**V. Renting Procedure:** Planning for initial rent-up, occupancy and maintenance should begin months ahead of the projected completion of the project. Decisions must be made concerning advertisement of the availability of units, how affirmative marketing practices will be used, tenant eligibility, and tenant selection criteria.

**A. Affirmative Fair Housing Marketing Plan:** All borrowers with five or more rental

units must meet the requirements of paragraph 1901.203(c) of Subpart E of Part 1901 (FmHA Instruction 1901-E) by preparing and submitting an Affirmative Fair Housing Marketing Plan on HUD Form 935.2, or providing evidence of being a signatory to a voluntary affirmative marketing agreement approved by HUD. Records must be maintained by the borrower reflecting efforts to fulfill the plan and will be subject to review by FmHA. The approved plan will be made available by the borrower for public inspection at the borrower's place of business or rental office which must be in the same local area as the housing. In developing the plan, the following items should be considered:

1. **Direction of Marketing Activity:** The plan should be designed to attract applications for occupancy from all potentially eligible groups of people in the housing marketing area regardless of race, color, religion, sex, age, marital status, or national origin, or physical or mental handicap (must possess capacity to enter into legal contract). The plan must show efforts will be made to reach those low-income and minority persons who traditionally would not be expected to apply for such housing without special outreach efforts.

2. **Marketing Program.**—The applicant or borrower should determine which methods of marketing such as radio, newspaper, TV, signs, etc. are best suited to reach those low-income and minority persons who otherwise might not apply for occupancy in the project.

a. **Signs, Brochures, Etc.**—Any signs, pamphlets, or brochures used must contain appropriate equal opportunity statements. A copy of this proposed material should be submitted along with the HUD Form 935.2 for approval. The nondiscrimination poster entitled, "And Justice For All" and/or the "Fair Housing" poster must be displayed in the rental office.

b. **Community Contact.**—In small communities where there may not be formal communication media aimed at minorities, contacts with special interest groups such as places of worship and social organizations should be made in affirmative marketing. Community contacts may also be used in reaching specific elements of the community such as the elderly or particular ethnic groups.

c. **Rental Staff.**—All persons responsible for rental of the units will be instructed in the procedures and requirements of the Affirmative Fair Housing Marketing Plan and in those actions necessary to carry out the plan in promoting equal housing opportunity.

3. The borrower will be required to provide data in accordance with Part 1901, Subpart E, pertaining to compliance reviews to indicate to what extent minority groups are being benefited.

**B. Tenant Eligibility and Occupancy Requirements.** It is important that the rental agent of the project be knowledgeable about the FmHA eligibility requirements and occupancy requirements as they relate to that particular project. FmHA loans are made on housing projects contingent upon the units being occupied by eligible tenants.

1. **The Tenant Must Meet the Following FmHA Eligibility Requirements:**

a. For the purpose of RRH loans developed under Plan I:

(1) A low- or moderate-income senior citizen or low- or moderate-income handicapped person.

(2) Any low-income non-senior citizens or low-income, non-handicapped persons.

b. For other RRH and RCH loans including those developed under Plan II: Any low- or moderate-income persons, except those senior citizens and handicapped persons who do not meet the definition of a low or moderate income person may continue occupancy if they were tenants prior to the issuance of this regulation.

c. Although the purpose of the program is to provide adequate housing for the eligible permanent residents of the community, a student or other seemingly temporary resident of the community who is otherwise eligible and seeks occupancy in a project may be considered an eligible tenant if all of the following conditions are met:

(1) Is either of legal age in accordance with applicable State law or is otherwise legally able to enter into a binding contract under State law.

(2) The person seeking occupancy has established a household separate and distinct from the person's parents or legal guardians.

(3) The person seeking occupancy is no longer claimed as a dependent by the person's parents or legal guardians pursuant to Internal Revenue Service regulations, and evidence is provided to this effect.

(4) The person seeking occupancy signs a written statement indicating whether or not the person's parents, legal guardians, or others provide any financial assistance and such financial assistance is considered as part of current annual income and is verified in writing by the borrower.

d. Tenants in RRH, RCH, and LH projects may receive FmHA rental assistance providing:

(1) Rental assistance has been made available to the project.

(2) The tenant's annual adjusted income does not exceed the limit established by Exhibit C to Part 1822 Subpart A (FmHA Instruction 444.1).

e. Any low-income household, that is unable to pay the approved monthly rental rate with 25 percent of adjusted income for housing including utilities may be eligible for Section 8 subsidy if it is being administered in the area.

f. For those FmHA projects with HUD Section 8 (new construction) assistance the tenants must:

(1) Meet those requirements as outlined in paragraph V B 1 b of this Exhibit.

(2) Meet HUD requirements in accordance with the Housing Assistance Payment Contract between HUD and the project owner.

g. For LH projects, a tenant must be a domestic farm laborer as defined in paragraph II of this Exhibit.

2. **Other Items That Should Be Considered in Determining Eligibility of Applicants for Admission to the Project:**

a. Credit reports should be obtained to determine the tenant's past record of meeting obligations.

b. Prior landlord references should be utilized to determine if the tenant was

responsive in meeting rent payment obligations, care, and maintenance of the unit.

c. Income must be verified in accordance with paragraph VI of this Exhibit before permitting occupancy.

d. The applicant's financial capability to meet other basic living expenses and the rental charge, taking into consideration any subsidy assistance that could be made available to the tenant. Twenty-five (25) percent of a tenant household's adjusted monthly income is considered reasonable for rent including utilities. However, if subsidy assistance is not available, more than 25 percent of the adjusted monthly income for the rent payment including utilities may often be justified.

3. **The Following Occupancy Requirements Apply:**

a. Each eligible tenant household will be assigned to a unit of appropriate size based upon the number of persons in the household. A household will not be assigned to a unit larger or smaller than is actually needed based upon the following criteria:

No. bedrooms	Occupants	
	Min	Max
0 (Efficiency)	1	1
1	1	2
2	2	4
3	4	6
4	6	8
5	8	10

Additional persons may reside in the unit provided the unit has adequate space for their total needs as determined by this paragraph and provided the total income of all adult members of the household does not exceed the maximum FmHA income levels, if any, set for the project in accordance with Exhibits C and D of Subpart A of Part 1822 (FmHA Instruction 444.1).

b. For LH projects and for those RRH projects designed and designated to provide housing specifically for senior citizens and/or handicapped persons as defined in paragraph II of this exhibit, occupancy is limited solely to those meeting the eligibility requirements for the persons for whom the housing is designed and designated (i.e., domestic farm laborers, senior citizens, and/or handicapped persons), except that occupancy may be permitted in the following cases not involving congregate housing:

(1) A person who is considered a member of the household of the domestic farm laborer, senior citizen, or handicapped person and the person's occupancy can be shown to be necessary for the well-being of the domestic farm laborer, senior citizen, or handicapped person.

(2) Surviving members of a senior citizen, and/or handicapped tenant's household may continue occupancy of the project even though they may not meet the definition of a senior citizen or handicapped person stated in paragraph II of this exhibit, provided they are eligible occupants in all other respects and they occupied the unit at the time of the event that the original tenant ceased to occupy the unit. Surviving members of a domestic farm laborer's household must meet

the definition of a domestic farm laborer as defined in paragraph II of this Exhibit or vacate the unit at the end of the lease term.

c. In connection with a congregate housing project, if the tenant or co-tenant is a senior citizen or handicapped person and is unable to live on a totally independent basis, the tenant or co-tenant's level of function and degree of competence in performing daily living activities must be assessed by the borrower, and the tenant or co-tenant may be permitted occupancy if found to possess the ability to sustain relative independence, given the supportive services provided in the project.

d. In connection with a congregate housing project, a resident assistant as defined in paragraph 1822.83 (c) of Subpart D to Part 1822 (FmHA Instruction 444.5) may occupy living space in a congregate housing group living arrangement without regard to income.

e. Formerly eligible tenants who no longer meet tenant eligibility requirements as stated in paragraph V B 1 may not be permitted continued occupancy of the project as an eligible tenant and must vacate the unit if an eligible tenant is available for occupancy except that a senior citizen or domestic farm laborer may continue occupancy of an LH project after retirement or becoming disabled.

4. Exceptions to Tenant Eligibility and Occupancy Requirements Authorized by State Director:

a. If it becomes necessary in the servicing of a loan made to finance an RRH project designed for, designated as, and limited to occupancy by eligible senior citizens and/or handicapped persons and there are no eligible senior citizens and/or handicapped persons on the waiting list, the State Director may authorize the borrower in writing to permit eligible non-senior citizens and non-handicapped persons to occupy the housing on a temporary basis in order to protect the financial interests of the Government provided the State Director determines that:

(1) There are no eligible senior citizens and/or handicapped persons on the waiting list.

(2) The borrower provided evidence that he/she has made a diligent but unsuccessful effort to rent the units to eligible senior citizens and handicapped persons. Such evidence should include advertisements in appropriate publications, posting of notices in several public places, holding open house, if appropriate, contacts with State and local agencies and organizations for senior citizens and handicapped persons.

(3) The borrower will continue with aggressive efforts to locate eligible senior citizens and handicapped tenants, and submit, along with Form FmHA 444-29 "Project Worksheet for Interest Credit and Rental Assistance," a report of efforts made. The required follow-up should be posted on the management system card in the District Office (proposed Form FmHA 1905-6, "Management System Card—Multiple Family Housing").

(3) The units will be rented on a monthly basis and only until they can be rented to eligible senior citizens and handicapped persons. The monthly lease must require the units to be vacated by the eligible non-senior citizen or non-handicapped person once an

eligible senior citizen or handicapped person is available.

b. If it becomes necessary in the servicing of a loan, the FmHA State Director may authorize a borrower in writing to rent units to ineligible (above-moderate income) persons for temporary periods in order to protect the financial interests of the Government when the State Director determines that:

(1) There are no low- and moderate-income persons in the area who would be eligible to occupy the rental unit or low- or moderate-income persons in the area cannot pay the rents.

(2) The borrower has agreed to operate on a limited profit or nonprofit basis and, if eligible, is operating under or has converted to Interest Credit Plan II.

(3) The borrower has provided evidence that he/she has made a diligent but unsuccessful effort to rent the units to eligible low- and moderate-income tenants. Such evidence should include advertisements in appropriate publications, posting notices in several public places, holding open house, if appropriate, contacts with public housing agencies and authorities (where they exist), Chamber of Commerce, real estate agencies, and other places persons seeking rental housing would likely contact.

(4) The borrower will continue with aggressive efforts to locate eligible tenants and submit, along with Form FmHA 444-29, "Project Worksheet for Interest Credit and Rental Assistance," a report of efforts made. The required follow-up should be posted on the management system card in the District Office (proposed Form FmHA 1905-6, "Management System Card—Multiple Family Housing").

(5) The units will be rented on a monthly basis and only until they can be rented to eligible tenants. The monthly lease must require that the unit be vacated by the ineligible tenant once an eligible tenant becomes available.

(6) Ineligible tenants will be charged the FmHA approved market rental rate for the size of unit occupied. In projects operated under Interest Credit Plan I, however, ineligible tenants will also be charged an additional rental surcharge of 25 percent of the approved market rental rate.

c. When a unit becomes available and there are no prospective eligible tenants on the waiting list that meet the occupancy requirements set forth in paragraph V B 2 of this exhibit for that size unit, the State Director may authorize the vacant unit to be rented to an eligible tenant from the waiting list for another size of unit provided the State Director determines that:

(1) The borrower has provided evidence that he/she has made a diligent but unsuccessful effort to rent the unit to an eligible tenant household with the appropriate number of people for that size unit. Such evidence should include items mentioned in paragraph V B 4 b (3) of this Exhibit.

(2) The borrower will continue with aggressive efforts to locate eligible tenants who meet the occupancy requirements of paragraph V B 3 of this Exhibit and submit, along with Form FmHA 444-29 a report of

efforts made. The Required follow-up should be posted on the management card in the District Office.

(3) The units will be rented on a monthly basis, and only until the tenant household can be reassigned to a unit of appropriate size. The monthly lease must require that the tenants vacate the inappropriate sized unit when a unit of appropriate size becomes available, or when an eligible household meeting the occupancy requirements for the unit being occupied applies for a unit. However, with regard to the requirement that the tenant vacate if a tenant meeting the occupancy requirements applies, you may permit the borrower to use discretion where justified so as not to create an undue hardship on the tenant who does not meet the occupancy requirements.

C. Notification of Eligibility or Rejection, 1. *Application Status for Determining Eligibility.* All persons desiring to apply for units will be provided a written listing of all documentation required. Applications are considered received when the tenant has submitted all forms and information to the borrower. If additional information is required, the borrower must notify the applicant, in writing, within 10 days of receipt of the initial application of specific additional information needed in order to complete a review of eligibility.

2. *Notification to Applicant.* When a decision has been made, the borrower will notify the applicant in writing that he or she has been selected, rejected, or placed on a waiting list.

3. *Applicants Determined Ineligible.* If the applicant is determined ineligible, the reason for rejection must be provided in writing in sufficient detail so that the applicant will have the opportunity to effectively evaluate the reason.

a. The letter of rejection must also outline the applicant's rights under the FmHA Tenant Grievance and Appeals Procedures in Part 1944, Subpart L (FmHA Instruction 1944-L).

b. If the rejection is because of information obtained from a Credit Bureau, the source of the report must be revealed to the applicant in accordance with the Fair Credit Reporting Act.

c. Applicants may be rejected because of:

(1) A history of unjustified and chronic nonpayment of rent.

(2) A history of violence and harassment of neighbors and management.

(3) A history of disturbing the quiet enjoyment of neighbors.

d. Rejection of applicants on the basis of arbitrary classifications is prohibited. Examples of such classifications are:

(1) Race, color, religion, sex, marital status, national origin, physical or mental handicap (except in those facilities designated for senior citizens and/or handicapped).

(2) Receiving income from welfare.

(3) Families with children of undetermined parentage.

(4) Participation in tenant organizations.

e. Rejected applications must be kept on file until such time as a compliance review has been conducted in accordance with Subpart E of Part 1901 (FmHA Instruction 1901-E).

D. Maintenance of waiting List. 1. If an eligible applicant is not assigned a unit



initially, the applicant will be placed on a waiting list in the chronological order in which the applications were received.

2. A different waiting list or a master waiting list with different categories or priorities indicated on it may be maintained as long as each list is in chronological order. If there are separate lists, they must be cross-referenced for applicants who fit more than one category or priority. Separate lists may be maintained for:

- (a) Various size units;
- (b) Units for senior citizens and handicapped;

(c) Displacees, such as victims of natural disasters and eminent domain, to whom priority consideration may be given.

Each list by category will be available for inspection by applicants on the waiting list. When the application is first submitted, the applicant will be notified of the category(s) assigned to that application. No application may be removed from a waiting list after any period of time without prior notification to the applicant or at least a good faith attempt to locate the applicant.

**VI. Verification and Certification of Tenant Income:** The incomes reported by the tenants selected for occupancy must be verified by the borrower.

A. Such verifications may be obtained by the use of Form FmHA 410-5, or verification forms prepared by the borrower or other sources. Until Form FmHA 410-5 is revised, it may be modified by deleting "to the Farmers Home Administration" in the last sentence of the instructions; deleting "Farmers Home Administration" Part I, item 2 and inserting the name and address of the borrower or management agent to whom the form is to be returned; deleting "applied for a Farmers Home Administration loan and" in the first sentence and the word "loan" in the second sentence of the applicant's statement in Part I; and by deleting the complete last sentence below the employer's signature. This form may be obtained from the local FmHA office.

B. In the case of senior citizens or other persons whose income is not from wages or salary, their income may be verified by actually examining the income checks, check stubs or other reliable data the tenant possesses which indicate the tenant's gross income. This information will be documented and filed in the "Tenant Record File".

C. District Directors are required to make a random sample of tenant income verifications. The random sample can be devised from information on the tenant certification forms that will be submitted to the District Office in accordance with paragraph VI E of this Exhibit. The random sample should be representative of both low- and moderate-income persons in the project, including those receiving subsidy assistance, those paying in excess of 25 percent of their income for the costs of rent and utilities, and those paying the market rent. District Directors will conduct the random sample in the borrower's office during their supervisory visits and at any time he/she may be knowledgeable of discrepancies in income verifications. If the random sample discloses discrepancies, the District Directors will be required to investigate further or report to the State Director to obtain the assistance of the

Office of Audit or the Office of Investigations.

D. For projects where the tenants are receiving Section 8 assistance, HUD's certification form may be used for the tenants receiving Section 8 assistance.

E. The borrower must initially, and at least every 12 months thereafter, submit to the District Office Form FmHA 444-8 "Tenant Certification" or other certification form approved by FmHA for each tenant. The initial, signed tenant certification will be submitted to the FmHA District Office with the next monthly payment following the date, that the tenant occupies the unit. Subsequently, signed tenant certifications must be obtained no later than the twelfth month after the previous certification and submitted to the FmHA District Office with the next monthly payment. Borrowers who are not required to submit monthly payments also will be required to submit these certifications to the District Office within 60 days for their existing tenants. The borrower or management agent will establish an adequate recordkeeping system of tenant certifications to assure this responsibility is carried out.

F. Recertification will be handled in accordance with paragraph VI E of this exhibit. Further, it will be necessary for the borrower to obtain the required verification of income on all tenants. The income of existing tenants will be verified at the time of initial certification and recertification.

**VII. Leases:** A Lease is a written contract between the tenant and the landlord assuring the tenant quiet, peaceful enjoyment and exclusive possessions of a specific dwelling unit in return for payment of rent and reasonable protection of the property.

A. *Form of Lease.* 1. All leases will be in writing and must cover a period of at least 30 days but not more than 1 year. In areas where there is a concentration of non-English speaking individuals, leases and the established rules and regulations for the project written in both English and the non-English concentration language must be available to the tenants.

2. Annual leases may contain an appropriate escalation clause permitting rental increases prior to the expiration of the lease. Such increases will normally be necessary due to higher utility and other operating costs. Such increases must be approved by FmHA in accordance with Exhibit C of this subpart.

3. The form of lease to be used, and any modifications thereof, must be approved by FmHA. When submitting a lease form for FmHA approval, it must be accompanied by a letter from the borrower's attorney regarding its legal sufficiency and compliance with Federal and State Law and FmHA regulations.

4. A copy of completed Exhibit F-5 A "Housing Allowances for Utilities and Other Public Services," to Subpart D of Part 1822 (FmHA Instruction 444.5), and a copy of the established rules and regulations for the project will be provided to the tenant as attachments to the lease.

B. *Required Lease Clauses.* The following clauses will be required in leases used in connection with FmHA financed housing projects.

1. For leases in connection with borrowers participating in the FmHA rental assistance program Exhibit R of Subpart D of Part 1822 (FmHA Instruction 444.5), the following clause will be used:

"I understand and agree that as long as I receive rental assistance, my total monthly payment for rent and utilities will be \$— (25 percent of my adjusted monthly income). If I pay any or all utilities directly (not including telephone or cable T.V.), a utility allowance of \$— will be deducted from my monthly payment for rental and utilities. If the utility allowance is in excess of 25 percent of my adjusted monthly income, the lessor will pay me this excess.

I further agree to notify the lessor of any permanent increases in adjusted monthly income or change in the number of family members living in the household. I understand that should I receive rental assistance benefits to which I am not entitled, I may be required to make restitution and I agree to pay any amount of benefits received to which I was not entitled.

I also understand and agree that monthly payment for rent under this lease may be raised or lowered, based on changes in household income and changes in the number and age of members living in my household. Should I no longer receive rental assistance as a result of these changes, I understand and agree that my monthly payment for rent may be adjusted to no less than \$— (basic rental) nor more than \$— (market rental) during the remaining term of this lease."

Eligible borrowers with LH loans and grants, direct RRH loans, or insured RRH loans approved before August 1, 1968, may omit the words "no less than \$— (basic rental) nor more than" from the last sentence of the above statement.

2. For leases with borrowers operating under Plan II Interest Credit only:

"I understand and agree that the monthly rental payment under this lease will be \$—. I also understand and agree that my monthly rental payment under this lease may be raised or lowered based on changes in my income and changes in the number and age of family members living in my household. The rental payment will not, however, be less than \$— (basic rental) nor more than \$— (market rental) during the term of this lease. I agree to promptly provide any certifications and income verifications required by the owner to permit eligibility determination and, if applicable, rental rate to be charged."

3. For all cases involving farm labor housing loans and/or grants, the following additional clauses:

a. "It is understood by the tenant that the project is operated and maintained for the purpose of providing housing for domestic farm laborers and their families. I do hereby certify that a substantial portion of my family income is and will be derived from farm labor. I further understand that domestic farm labor means persons who receive a substantial portion of their income as laborers on farms in the United States and either (1) are citizens of the United States, the Commonwealth of Puerto Rico, The Virgin Islands, the territories and possessions of the United States, or the Trust Territory of the Pacific Islands or (2) reside in one of the



foregoing areas after being legally admitted for permanent residence or on indefinite parole, and may include the families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while in the unprocessed stage, provided the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. It also includes labor for the production of aquatic organisms under a controlled or selected environment, aquacultural and hydroponic farming."

b. "I agree that if my income ceases to be substantially from farm labor, I will promptly vacate my dwelling after proper notification by the owner."

4. The lease agreement in congregate housing cases must include in the major provisions the following statement: "I understand that my ability to live independently in the project with the support services available will be evaluated on a continuous basis. I may be requested to vacate if a determination is made that I am no longer able to live in the project without additional assistance." This would involve cases where the tenant has progressed or regressed to a state of health that requires, in the opinion of the management, a level of care not available in the congregate housing facility.

C. *Other Required Lease Provisions.* All leases must contain provisions covering:

(1) Names of the parties to the lease and the identification of the premises leased.

(2) The amount and due date of rental payments.

(3) Any penalty for late payment of rent in accordance with Section VIII B of this Exhibit.

(4) The utilities and quantities thereof and the services and equipment to be furnished to the tenant by management.

(5) The process by which rents and eligibility for occupancy shall be determined and redetermined including:

(a) The frequency of such rental and eligibility determinations.

(b) The information which the tenant shall supply to permit such determinations.

(c) The standards by which rents, eligibility, and appropriate dwelling unit size shall be judged.

(d) The circumstances under which a tenant may request a redetermination of rent.

(e) The effect of misrepresentation by tenant of the facts upon which rent or eligibility determinations are based.

(f) The time at which rent changes or notice of ineligibility shall become effective.

(6) The limitation upon the tenant of the right to the use and occupancy of the dwellings.

(7) The responsibilities of the tenant in the maintenance of the dwelling and such other project areas as may be assigned for maintenance and upkeep, if any; and the obligation for intentional or negligent failure to do so.

(8) The use of separate legal process to collect monetary claims for damages.

(9) The responsibility of management to maintain the buildings and any unassigned community areas in a decent, safe, and sanitary condition in accordance with local housing codes and FmHA regulations, and its obligations for failure to do so.

(10) The responsibility of management to provide the tenant with a written statement of the condition of the dwelling unit (when the tenant initially enters into occupancy and when vacating the dwelling unit), and the conditions under which the tenant may participate in the inspection of the premises which is the basis for such statement.

(11) The circumstances under which management may enter the premises during the tenant's possession thereof, including an annual inspection of the dwelling unit as a part of a preventive maintenance program.

(12) The formalities that shall be observed by management and tenant in giving notice one to the other as may be called for under the terms of the lease.

(13) The circumstances under which management may terminate the lease, all limited to good cause, and the length of notice required for the tenant to exercise the right to terminate.

(14) The agreement that any tenant grievance or appeal from management's decision shall be resolved in accordance with procedures consistent with FmHA regulations covering such procedures.

(15) The usual signature clause attesting that the lease has been executed by the parties.

D. *Prohibited Lease Clauses.* Lease clauses in the classifications listed below shall not be included in any lease.

1. *Confession of Judgment.* Prior consent by tenant to any lawsuit the landlord may bring against the tenant in connection with the lease and to a judgment in favor of the landlord.

2. *Distrain for Rental or Other Charges.* Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

3. *Exculpatory Clause.* Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

4. *Waiver of Legal Notice by Tenant Prior to Actions for Eviction or Money Judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

5. *Waiver of Legal Proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred.

6. *Waiver of Jury Trial.* Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to a trial by jury.

7. *Waiver of Right To Appeal Judicial Error in Legal Proceedings.* Authorization to the landlord's lawyer to waive the tenant's right to appeal on the ground of judicial error in any suite or the tenant's right to file a suit in equity to prevent the execution of a judgment.

8. *Tenant Chargeable With Costs or Legal Actions Regardless of Outcome.* Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant.

(Omission of such clause does not mean that the tenant, as a party to a lawsuit, may not be obligated to pay attorney's fees or other costs if the tenant loses the suit.)

E. *Modification of Lease—Notification to Tenants.* The landlord may modify the terms and conditions of the lease, effective at the end of the initial term or a successive term, by serving an appropriate notice on the tenant, together with the tender of a revised lease or an addendum revising the existing lease. This notice and tender shall be sent to the tenant by first-class mail, properly stamped and addressed or delivered to the premises.

The date on which the notice shall be deemed to be received by the tenant shall be the date on which the first-class letter is mailed or the date on which the copy of the notice is delivered. The notice must be received within 30 days prior to the last date on which the tenant has the right to terminate the tenancy without executing the revised lease. The notice must advise the tenants that they may appeal modifications to the lease in accordance with Subpart L of Part 1944 of this Chapter if said modification will result in a denial, substantial reduction, or termination of benefits being received.

The same notification will be applicable to any changes in the rules and regulations for the project.

F. *Rules for Occupancy:*

1. All rules for occupancy, including rent structures will be in writing, posted conspicuously in the borrower's offices, and made available to each tenant with the lease agreement.

2. Proposed changes of any rules for occupancy must be made available to each tenant at least 30 days in advance of implementation, and tenants must be advised that they may appeal changes in accordance with Part 1944, Subpart L, of this Chapter (FmHA Instruction 1944-L).

3. No rule may infringe on the rights of the tenants to organize an association of tenants. Such associations may be organized to bargain with management, as well as to act socially and/or provide for the welfare of its members.

4. Rules may be promulgated that prohibit activities which are detrimental to management and tenants including but not limited to:

(a) Excess noise;

(b) Violation of health codes;

(c) Other actions certified by FmHA as being detrimental to management and tenants.

5. Initial rules will be attached to the lease agreement and be approved by FmHA. Approval of FmHA for changes and additions may be requested annually with submission of annual reports or more frequently only in the case of an emergency situation.

G. *Security Deposits.* (1) May be permitted if reasonable and customary for the area but are not mandated by FmHA. If required they will not be in an amount in excess of one month's rent. The amount of security deposits should be reflected in the borrower's management plan and not be changed without the written consent of the FmHA District Director. Security deposits for low-income persons shall be administered so as

not to create a hardship on the household and should ordinarily:

(a) Not exceed a down payment of 25 percent of adjusted monthly income plus \$5 per month for 12 months.

(b) For low-income farmworkers residing in a LH project not exceed a \$10 down payment and \$5 per month for 12 months. In the case of migratory farm workers who will occupy the units for a short period of time, the security deposit collected at initial occupancy may be increased to \$25.00. The State Director may make an exception to this policy upon written request from the borrower when it is shown that such deposit needs to be raised to protect the security interest of the government and will not create a hardship on the tenants.

(2) Security deposits shall be handled in accordance with local laws and ordinances. Unless prohibited by local laws and ordinances, tenant security deposits shall be deposited in interest bearing accounts in Financial Institutions, insured by the Federal Government. Any interest earned and accumulated must be considered money due the tenant upon vacation of the premises, less any amounts owed management.

(3) Borrowers may assess fair and reasonable charges to the security deposit for damage and losses caused or allowed by the tenant. An itemized accounting for such charges must be presented to the tenant in such cases, unless the tenant has abandoned the property and his/her whereabouts are unknown and cannot be ascertained after reasonable inquiry.

**VIII. Rent Collection:** A pre-established day of the month should be designated rental collection day. The time and place of onsite collection and the correct address for payment by mail should be well publicized and consideration should be given to any need for an after-hours' depository.

**A. Rental Receipts.** A form of serially-numbered rental receipts should be selected for use and the collection agent held accountable for every receipt. If optional collection services are available, they may be considered.

**B. Delinquent Rents.** A system to identify and detect unpaid rents should be instituted within the project. A penalty for late payment of rent beyond a 10-day grace period not to exceed \$10.00 may be permitted. The borrower should consider the circumstances causing the late payment before assessing any penalty. True hardship cases should not be assessed penalties; however, a firm and fair policy on payment of rent will help collections.

**IX. Rent Increases:** It may be necessary as operating costs increase or revenue decreases to consider a rental increase to keep the project viable. If this occasion should arise, *prior consent of FmHA is required*. The procedure to initiate a rent increase is specifically covered in Exhibit C of this Subpart. The borrower must meet these requirements.

**X. Maintenance:** Maintenance is the process by which a project is kept up in all respects and includes land, buildings, and equipment. Maintenance responsibilities will be included in the management plan. Proper maintenance will help to keep a good image

for the project and help to minimize vacancies. Plans and policies for inspections, effective maintenance and repair are to be established at the outset. The following types of maintenance items will be necessary:

**A. Routine Maintenance.** Routine or short-term type maintenance and repairs will be those cost items and services allowed for in the annual budgets to be paid for out of the operations and maintenance expense account. These are tasks concerning the maintenance of the project that can be prescheduled or planned for, based on equipment need and property characteristics. Also included are janitorial tasks performed on a regular basis in order to maintain the appearance of the project and to prevent an accumulation of dirt and subsequent deterioration.

**B. Responsive Maintenance.** This is all tasks of maintenance performed in response to either requests for service from tenants or to unplanned breakdowns. An essential part of any maintenance system is to plan for requests coming from the dwelling units and for emergencies occurring in the systems serving the apartments. The project manager should develop a plan to focus on: Who receives the requests, how they are handled, how specific employees are assigned in the tasks and what kind of records are kept. The capacity of the project manager to respond to requests and emergencies is one of the true tests of a successful maintenance program.

1. Requests for maintenance service should be channeled through the project manager's office. Information which is obtained at this time includes the date and time the request was made and the nature of the request. When the request has been satisfied, the employee completing the work signs the request and enters the date and time of the completion.

2. If the request is not completed within 24 hours, the resident will be informed of this by a phone call and a written memo. A followup tickler system will be utilized to assure completion.

3. All tenants should be provided with emergency procedures at the time of move-in and tenants should be continually updated and briefed on their use. The project manager should post the emergency procedures in a highly visible place within the rental project. Responsive maintenance work will be a major part of the workload.

4. The project manager should develop a system of controls and responses to the requests. The project manager should consider the following:

a. All requests should be made at the manager's office or the maintenance shop. The location should be conveniently accessible for assistance.

b. One person should be designated to handle maintenance requests.

c. There should be a procedure whereby the project manager is informed of these requests. Controls should be set up so the project manager knows how work is progressing, if there are any delays, the reason(s) for any delays, and when the job is completed.

d. There should be a system developed to record all requests.

e. Establish a priority basis for responding to requests. For example, priority number one

would mean immediate danger to people or property.

f. Try to predict requests on basis of tenant population and past experience, such as when weather gets colder, or on special days, i.e. Mondays or days following holidays.

g. Determine who should do the work. A procedure for assigning personnel to jobs and for calling special service firms should be established and posted.

h. Establish procedure for recording information on repairs for budgeting, cost analysis, and reporting. This requires keeping an accurate record of parts, supplies, and materials purchased.

The importance of maintenance cannot be overstated. The effectiveness of a project's maintenance program rests ultimately with the project manager.

**C. Preventive Maintenance.** This is similar to inspection type maintenance in that regular checking and servicing of equipment and systems are done as required by service information. Preventive maintenance of mechanical systems, building exteriors, elevators, and heating systems in rental projects require specially trained personnel. The project manager should establish biweekly or monthly schedules in which the routine oiling, replacing of filters, and the like is done based on manufacturer's manuals and specifications.

**D. Long-term Maintenance.** These are major expense items which normally do not occur on an annual basis. When such expenses occur, the borrower may request permission to use reserve funds to pay for these expenses. However, use of funds out of the reserve account must be preapproved by FmHA.

**E. Inspection Maintenance.** These are maintenance inspections performed periodically to discover problems before crisis situations develop. The following inspections should be made at various times of each tenant's apartment:

1. **Move-in Inspection.** When an applicant is accepted for occupancy of a unit, the management and the applicant together should inspect the unit to be occupied and agree upon any repairs needed. A written inspection report shall be prepared and a copy retained in the tenant's file. Any of these deficiencies not corrected prior to occupancy should be noted on the lease.

2. **Move-out Inspection.** When the management becomes aware that the tenant is moving out or has vacated the unit, an inspection should be scheduled with the tenant. Any repairs or costs to be charged to the tenant will be in accordance with the terms of the lease.

3. **Periodic Inspection.** The borrower should make allowances in the lease for periodic inspection of the units as a part of preventive maintenance. An inspection of this type should be made at least annually.

#### **XI. Record Maintenance and Reporting:**

##### **A. Borrower Reporting Responsibilities.**

Certain reports will be necessary in order to meet the FmHA requirements and aid the borrower in carrying out the objectives of the loan. Some must be submitted with the FmHA payments and others submitted to FmHA either monthly or annually. The following reports will be prepared and

submitted by the borrower. Exhibits B-6, B-7, and B-8, which are available in the FmHA District Office, are to be used as a guide for determining when reports are due and the number of copies.

**1. Monthly Reports:**

a. Proposed Form FmHA 1930-6, "Monthly Report," will be submitted by the tenth of each month to the District Office.

b. Form FmHA 444-29, will be submitted with the payment to the District Office.

**2. Annual Reports:** Within 45 days following the close of the borrower's fiscal year, a report consisting of:

a. Proposed Form FmHA 1930-7, "Statement of Budget, Income and Expense," showing planned income and expenses for the next year as well as actual income and expenses for the past year.

b. Proposed Form FmHA 1930-8, "Year End Report and Analysis."

c. Audit report to be completed in accordance with the booklet, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits for FmHA Borrowers and Grantees." For borrowers with 21 or more units in one or more projects, the audit will be prepared by (1) a CPA or (2) LPA licensed on or before December 31, 1970. Borrowers with 20 units or less will need to provide a verification by a competent individual independent of the borrower or by a committee of the membership not including any officer, director, or employee of the borrower; however, the State Director may also require audits by a CPA or LPA for any project.

d. Copy of the minutes of the annual meeting, if applicable.

e. Any other related material that may be requested by the District Director.

**3. Accounting Reports:** All accounting reports submitted to FmHA will be on the accrual basis.

**B. Record Maintenance.** Proper bookkeeping, accounts, and record maintenance are essential for a successful project. The extent of the recordkeeping system will depend on the size and complexity of the project. The following guides are offered:

**1. Accounting Records:** the type of accounting records will be established in accordance with the requirements of the borrower's loan agreement or resolution unless otherwise altered by State or local regulations. The type and form of accounting to be used must be determined prior to loan or grant closing. The underlying purpose of an accounting system is to provide the financial information needed by the project manager to help plan and control the activities of the project. It is also needed by the owner, FmHA, investors, and the public who have an interest that will be served by information about its financial position and operating results.

a. In order for the project manager to plan and control the financial activities of the project, he/she first needs to develop a systematic method to record the business transactions of the project. These business transactions should be classified into groups and categories to enable the project manager to reduce a mass of detail into a compact and usable form. The following accounts, as a minimum, will be established for all projects:

(1) **General Fund Account:** All income and revenue from the project shall be immediately deposited into this account. This will include: Rent receipts, housing subsidy payments, laundry revenue, or any other project income. This should be a checking account and the monies must be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation (FDIC). The initial minimum 2 percent contribution for operating and maintenance capital, which is required for FmHA loans, will also be deposited in this account.

(2) **Operation and Maintenance Account:** Normally this will be a ledger account. Credits will be made from the General Fund Account monthly to pay actual and necessary current operating expenses.

(3) **Debt Service Account:** Normally this will be a ledger account. Credits will be made to this account from the General Fund Account monthly to pay the next FmHA loan installment. For borrowers who pay annually, credits to this account will be made monthly until the total amount is sufficient to meet the next installment due on the loan. An interest-bearing demand deposit account insured by FDIC may be used by borrowers making payments annually.

(4) **Reserve Account:** Normally this will be a separate FDIC insured interest-bearing account. Deposits to this account are to be made monthly in amounts sufficient to meet the requirements of the borrower's loan agreement or resolution. Withdrawals from this account are prohibited without prior consent of FmHA.

(5) **Security Deposit Account:** This will be a separate FDIC-insured bank account for tenant security deposits. These funds will not initially be deposited in the General Fund Account nor included as project income. However, those monies retained as a result of lease violations, will be deposited in the General Fund Account and counted as income. In addition, the borrower must comply with any State or local laws governing the handling of security deposits.

b. **Proper accounting practices** will require maintenance of journals, ledgers, and accounting papers. In practice as well as in theory every transaction is originally recorded in a journal and ultimately posted to an account ledger. This posting from journal to ledger creates an "audit trail" so every transaction that occurs in a rental project can be traced back through every journal and ledger where it is recorded. Some of these items may be as follows:

(1) **Journals:** These may be sheets of papers, checkbooks, or any other form on which an original transaction is entered chronologically and marked with the appropriate account number. Usually, an accounting system has at least a Rent (or Cash) Receipts Journal. Each entry in a journal should have supporting documentation, such as an invoice, receipt, petty cash slip, etc.

(2) **Ledgers:** Information from the journals is recorded by account number in ledgers, which are also sheets of paper, cards or forms, and then cross-referenced to the appropriate journal. There may be a separate subsidiary ledger for each account. For example, the rental ledger consists of separate subsidiary ledgers for each unit.

(3) **General Ledger:** This pulls together the information from all the other ledgers. It is made up of separate sheets or pages for each account. At the end of each accounting period (usually one month) all of the transactions that took place during the period are entered in appropriate accounts in the General Ledger. Each entry includes the date, a reference to the source of the data, an explanation of the entry, the amount, and the year-to-date balance.

**2. Rejected Application:** Rejected applications must be kept on file until such time as a compliance review has been conducted in accordance with Subpart E of Part 1901 (FmHA Instruction 1901-E).

**3. Tenant Record File:** A separate file must be maintained for each tenant. This file will include such items as application, income verification, credit report, tenant certification forms, recertification and verification forms, lease, inspection reports for moving in and moving out, correspondence and notices to the tenant, and any other information as may be necessary. The information as to income verification, tenant eligibility certification and recertification must be retained for at least 2 years after the tenant has moved out.

**4. Other Records:** Any other records that may be required or determined necessary for the success of the project.

**5. Review of Records:** All records will be subject to review by FmHA and other authorized agencies or persons.

**C. Financial and Management Analysis.** Financial and management analysis provides information on how the project is progressing. Regular analysis of the project's operations can help identify problems and deficiencies early so that appropriate corrections can be initiated. Some methods of analysis are:

**1. Budget Analysis:** This is one of the simplest tools to use in financial analysis. Utilizing the monthly and annual reports, the project manager records actual income and expenses and compares them with the budgeted amounts. Any differences between the budget and actual figures indicate where the manager may need to focus added attention or take corrective action.

**2. Ratio Analysis:** This is another technique used in financial analysis. It prescribes various measures of actual operating performance in terms of ratios. Some useful ratios are:

$$a. \text{Vacancy rate} = \frac{\text{Total vacancy days for the month}}{\text{Total unit days for the month}}$$

$$b. \text{Resident turnover ratio} = \frac{\text{Total units becoming vacant during the period}}{\text{average units occupied for the period}}$$

$$c. \text{Expense ratio} = \frac{\text{total expense}}{\text{total income}}$$

**XII. Management-Tenant Relations:** This portion of the management plan should be complete since it establishes the basic relationships that could be the difference between success and failure in the project. A well-planned orientation for tenants or prospective tenants is advisable. Rules and regulations must be provided and adequately explained so the tenant will understand the goals and objectives of the project. The management should be available and willing to work with a tenant organization. Listed below are a number of areas that should be addressed in written materials developed by management and provided to all tenants prior to move-in:

A. *Explanation of rights and responsibilities under the lease.* Where a foreign language is common to an area, a lease written in that language should also be provided.

B. *Rent payment policies and procedures should be fully explained.*

C. *Policy on periodic inspection of units.*

D. *Responding to tenant complaints.*

E. *Maintenance request procedure.*

F. *Services provided by management.*

G. *Office hours, emergency telephone numbers.*

H. *Map showing location of community facilities including schools, hospitals, libraries, parks, etc.*

I. *Restrictions on storage and prohibition against abandoning vehicles in the project area.*

J. *A project newsletter; if desired.*

**XIII. Termination of Lease and Eviction:**

Borrowers should actively work to avoid forced terminations of leases and evictions. The rules governing termination of leases and evictions for cause are outlined in this section.

A. *Entitlement of Tenants to Continued Occupancy.* 1. *General.* The borrower may not terminate any tenancy except upon material noncompliance with the lease or for other good cause.

2. *Material Noncompliance.* Material noncompliance with the lease includes (a) one or more substantial violations of the lease or (b) repeated minor violations of the lease which disrupt the liveability of the project, adversely affect the health or safety of any person, or the right of any tenant to the quiet enjoyment of the leased premises and related project or have an adverse financial effect on the project. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period constitutes a minor violation.

3. *Notice of Other Good Cause.* Conduct cannot be considered other good cause unless the borrower has given the tenant prior notice that the conduct will constitute a basis for termination of tenancy.

4. *Rent Overburden.* Any tenant household paying more than 25 percent of their adjusted income toward rent, including utilities, is experiencing rent overburden. No evictions will be permitted for non-payment of rent when a tenant experiences rent overburden and the tenant may be eligible for rental assistance or Section 8 assistance and resides in an eligible project where such

assistance could be made available to him/her upon application by the borrower.

B. *Notice of Termination.* The borrower's intent to terminate the tenancy will be in writing and will:

(1) State that the tenancy is terminated on the date specified in the notice and refer to relevant provisions in the lease. Such notice cannot be less than State law requirements if any.

(2) State the reasons for the termination with enough specificity to enable the tenant to prepare a defense. In those cases in which proposed termination of the lease is due to the tenant's failure to pay rent, a notice stating the dollar amount of the balance due on the rent account and the date of such computation shall satisfy the requirement of specificity.

(3) Be sent to the tenant by first-class mail, properly stamped and addressed, or delivered to the premises.

(4) Be effective no sooner than 30 days after notice is received except where continued occupancy constitutes a threat to the health and safety of other tenants or management employees. In such a case, termination will be effective in accordance with the seriousness and immediacy of the threat.

(5) State the tenant's rights under the grievance and appeals procedure as outlined in Part 1944 of Subpart L (FmHA) Instruction 1944-L, including his/her right to request a hearing if the matter cannot be settled informally between the borrower and the tenant.

(6) Properly identify the address and/or location to which the tenant is to respond.

**XIV. Security Servicing:** Security servicing, as contained in this Exhibit, concerns the borrower's responsibilities in relation to the loan agreement or resolution, mortgage, and other loan closing papers. It does not deal with security items between the borrower and the tenants. FmHA will look to the borrower to fulfill its obligation in accordance with the requirements of the loan agreement or resolution, note, mortgage, and other legal or closing documents. Some items of special emphasis are:

A. *Fidelity Bond.* All borrowers will be required to provide Fidelity Bond coverage for the officials, employees, and management agents entrusted with the receipt, custody, and disbursement of its funds or any other negotiable or readily saleable personal property except in those cases where a loan has been made to an individual (natural person) and that individual will be responsible for such activities. The amount of the bond will at least equal two months rental collection or the maximum amount of money the project will have on hand at any one time, including cash on hand, money in reserve and other special accounts, etc., whichever is greater. The United States will be named as co-obligee in the bond if not prohibited by State Law. Form FmHA 440-24, "Position Fidelity Schedule Bond," will be used if not prohibited by State Law.

B. *Insurance.* The minimum amounts and types of insurance required of the borrower will be determined by FmHA:

1. Adequate fire and extended coverage will be required on all buildings included as security for the loan.

2. Suitable Workmen's Compensation Insurance will be carried by the borrower for all its employees.

3. The borrower should also carry adequate liability insurance.

4. If the project is located in a designated flood hazard area, flood insurance will be required.

#### Exhibit B-1—Management Plan Requirements for FmHA Multiple Family Housing Projects

A detailed Management Plan is required for all FmHA Multiple Housing projects. Also, a Management Agreement must be provided where a management agent is to be used. The Management Plan will be used by FmHA in evaluating the feasibility of the project from a management standpoint. A Management Plan will be considered sufficiently detailed if it is at least responsive in depth to each of the following areas.

1. *The role and responsibility of the owner and the relationship and delegations of authority to the management agent.* If there is no Management Agent, supply the equivalent information concerning the management staff assigned to day-to-day operation of the project.

a. If the management agent is closely associated with the owner in such a manner that creates a possible conflict of interest, is such relationship fully explained and justified?

b. What are the supervisory relationships, and to whom are the persons responsible for the day-to-day operation of the project accountable?

c. Under what conditions must the management agent consult the owner before taking action?

d. What are the areas in which the management agent may make decisions without consulting the owner?

e. Who, in the owner's organization, is the key contact person for the management agent? What decision making powers does this contact person have?

f. Are the respective responsibilities of the owner and the management agent listed? Are these responsibilities clearly defined so as not to overlap? Are they clearly assigned? Are all basic responsibilities covered?

#### 2. *Personnel policy and staffing arrangements.*

a. Is all hiring in conformance with equal employment opportunity requirements?

b. What are the projected staffing needs for the project?

c. What are the lines of authority, responsibility, and accountability within the management entity?

d. What are the positions to be filled, the duties of each position, and the compensation?

3. *Plans and procedures for marketing units and achieving and maintaining full occupancy, and affirmative marketing.* a. How and when will the units be advertised as available?

b. How will affirmative marketing practices be utilized? What outreach and marketing efforts will be made to reach those low-income and minority persons who traditionally would not be expected to apply for such housing without special outreach efforts?

c. What plans are being made to achieve and maintain 100% occupancy by eligible families?

d. What are the procedures to allow for eligible applicants to inspect the units prior to their being made available for occupancy?

e. What orientation services are to be provided tenants to acquaint them with the project and care of the units?

f. Who is responsible for selecting the tenants? Is this selection subject to review? If so, under what conditions and by whom?

4. *Procedures for determining tenant eligibility and for certifying and recertifying incomes.* a. How are applications and other records pertinent to this function kept?

b. Who will be responsible for carrying out this function?

c. Is the responsible person knowledgeable regarding certification and recertification requirements? If not, what provisions are being made to provide this person with the necessary training?

d. Is the responsible person aware of FmHA requirements covering family size and needs as they relate to unit size?

e. Is the responsible person aware of FmHA requirements regarding tenant eligibility, rejection, or placement on a waiting list?

5. *Tenant admissions policies and leasing policies.* a. What procedures will be used in maintaining a waiting list?

b. What are leasing policies and procedures?

c. Is the person responsible knowledgeable of FmHA required lease clauses? FmHA prohibited lease clause?

d. What are the Rules for Occupancy?

e. If a substantial number of tenants do not speak or read the English language, are leases and the established rules and regulations for the project written in both English and the non-English concentration language available?

6. *Rent collection policies and procedures.* a. What are the rent collection policies and procedures?

b. Where are rents to be paid and who is responsible for collection?

c. Is there a provision for on-site collections? After hours depositing?

d. Are rent payments adequately recorded and kept in a separate account?

e. What is the amount of any required security deposits? What is the program for maintaining adequate accounting records of security deposits?

7. *Procedures for requesting and implementing a rent increase.* a. What procedures will be followed in requesting FmHA approval of a rent increase? (Refer to Exhibit C of this Subpart.)

b. At what time of year will such a request normally be made and what information will be presented to FmHA as justification?

c. How will the tenants be notified of a proposed increase, and if approved, how will you inform the tenants?

8. *Plans for carrying out an effective maintenance and repair program.* a. What procedures have been developed to service appliances and the mechanical equipment? To check out all such equipment to be sure that it is properly installed and operating prior to releasing units for occupancy?

b. What are the procedures for inspecting and carrying out maintenance activities in units prior to a moveout? Prior to re-renting the unit?

c. What is the schedule for interior and exterior painting and redecorating?

d. How will garbage and trash removal be handled?

e. How will major repairs be handled?

f. How will grounds upkeep and maintenance be carried out?

g. What is the schedule for cleaning entryways, halls, and other common areas?

h. How will tenants be instructed to report major and/or minor maintenance repair needs?

i. What security provision will be made for the protection of project residents such as fire extinguishers, outside lighting, etc.?

9. *Plans for record maintenance and reports.* a. Who will be responsible for the preparation and submission of the monthly and annual reports required by FmHA?

b. What type of project records will be used and how will they be maintained?

c. Discuss the proposed tenant record and maintenance system including retention of records.

d. Where will records subject to FmHA review be kept?

10. *Energy conservation measures.* a. What utilities will the tenants have direct control of where energy conservation can be practiced?

b. What utilities will the management have direct control of where energy conservation can be practiced?

c. Explain the proposed energy conservation practices in connection with utilities paid by the management.

d. Describe proposed actions to stimulate energy conservation by the tenants.

e. How will tenants be oriented to energy conservation measures?

11. *Plans for tenant-management relations.*

a. How will tenants be oriented to the project?

b. Is the person responsible knowledgeable of FmHA Tenant Grievances and Appeals procedures?

12. *Termination of leases and evictions.* a. Is the person responsible knowledgeable of FmHA's requirements regarding termination of leases and evictions?

b. Is the person responsible knowledgeable of FmHA's requirements regarding notification that must be given to a tenant when termination of the lease or eviction is proposed?

13. *Security servicing.* a. Is the person responsible knowledgeable of FmHA requirements for Fidelity Bond coverage?

b. Is the person responsible knowledgeable of FmHA's insurance requirements?

14. *Management agreement (contract).* a. Attach a copy of the proposed form of Management Agreement (Contract) that will be used if the project will not be owner-managed. (See Exhibit B-2 for requirements for management agreements.)

Exhibit B-2—Requirements for Management Agreements

A completed and executed management agreement must be submitted to Farmers Home Administration (FmHA) with the final application.

1. A written management agreement shall be required for any project when the owner retains a management agent. Although a written management plan is required for all projects, a management agreement is not required if the project is managed by the owner.

2. The management agreement shall conform to FmHA requirements. The owner may delegate to the agent any management duties which are not required to be performed by the owner. Nevertheless, whatever the scope of the agent's authority, the owner remains totally responsible to FmHA for all aspects of management, including duties delegated to the agent.

3. The management agreement shall be consistent with the management plan for the project. The management plan is the primary management charter, constituting a comprehensive description of the detailed policies and procedures to be followed in managing the project. The function of the management agreement is incident to implementation of the management plan. The agreement must define in precise language the terms of the agreement, and accordingly, the agreement need not repeat all of the detailed procedures contained in the management plan.

4. The management agreement may conform to the suggested housing management agreement as reflected in Exhibit B-3 of this Subpart. Each management agreement shall be realistically tailored to the specific conditions of the particular project. The site, design, and size of the project, fiscal constraints; market conditions; social factors; local law and business practices are among the elements which may require variations in the management agreement. Consideration should also be given to the capabilities and legitimate desires of the owner and agent.

Exhibit B-3—Suggested Housing Management Agreement for FmHA Multiple Family Housing Projects

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between \_\_\_\_\_ (the "Owner") and \_\_\_\_\_ (the "Agent").

1. *Appointment and Acceptance.* The Owner appoints the Agent as exclusive agent for the management of the property described in Section 2 of this Agreement, and the Agent accepts the appointment, subject to the terms and conditions set forth in this Agreement.

2. *Description of Project.* The property to be managed by the Agent under this Agreement (the "Project") is a housing development consisting of the land, buildings, and other improvements which make up Project No. \_\_\_\_\_. The Project is further described as follows:

Name: \_\_\_\_\_

Location: City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_

No. of dwelling units: \_\_\_\_\_

3. *Definitions.* As used in this Agreement: a. "FmHA" means the Farmers Home Administration, including any successor agencies.

b. "Principal Parties" means the Owner and the Agent.

4. *FmHA Requirements.* In performing its duties under this Management Agreement,



the Agent will comply with all pertinent requirements of FmHA.

**5. Management Input During FmHA Processing.** The Agent will advise and assist the Owner with respect to management input during the remaining stages of FmHA loan processing. The Agent's specific tasks will be as follows:

a. Preparation and submission to the Owner of a recommended operating budget for the initial operating year of the Project.

b. Participation in any conference with FmHA officials involving project management.

c. Preparation and submission to the Owner (for the Owner's signature and submission to FmHA) of proposed form FmHA 1930-6, "Monthly Report" throughout the period from initial occupancy after FmHA loan closing until such time as no longer required by FmHA.

d. Participation in the on-site final inspection of the Project, required by FmHA prior to initial occupancy.

e. Continuing review of the Management Plan, for the purpose of keeping the Owner advised of necessary or desirable changes.

**6. Management Plan.** Attached hereto, and hereby incorporated herein, is a copy of the Management Plan for the Project, which provides a comprehensive and detailed description of the policies and procedures to be followed in the management of the Project. In many of its provisions, this Agreement briefly defines the nature of the Agent's obligations, with the intention that reference be made to the Management Plan for more detailed policies and procedures.

Accordingly, the Owner and the Agent will comply with all applicable provisions of the Management Plan, regardless of whether specific reference is made thereto in any particular provision of this Agreement.

**7. Basic Information.** As soon as possible, the Owner will furnish the Agent with a complete set of plans and specifications and copies of all guarantees and warranties pertinent to construction, fixtures, and equipment. With the aid of this information and inspection by competent personnel, the Agent will become thoroughly familiar with the character, location, construction, layout, plan and operation of the Project, and especially of the electrical, heating, plumbing, air-conditioning and ventilating systems, the elevators, and all other mechanical equipment.

**8. Liaison With Architect and General Contractor.** At the direction of the owner during the planning and construction phases, the Agent will maintain direct liaison with the architect and general contractor, in order to coordinate management concerns with the design and construction of the Project, and to facilitate completion of any corrective work and the Agent's responsibilities for arranging utilities and services pursuant to Section 14 of this Agreement. The Agent will keep the Owner advised of all significant matters in this connection.

**9. Marketing.** The Agent will carry out the marketing activities prescribed in the Management Plan, observing all requirements of the Affirmative Fair Housing Marketing Plan.

**10. Rentals.** The Agent will offer for rent and will rent the dwelling units in the Project. The following provisions will apply:

a. The Agent will make preparations for initial rent-up, as described in the Management Plan.

b. The Agent will follow the tenant selection policy described in the Management Plan.

c. The Agent will show the premises to prospective tenants.

d. The Agent will take and process applications for rentals. If an application is rejected, the applicant will be informed in writing of the reason for rejection, and the rejected application, with reason for rejection noted thereon, will be kept on file until a compliance review has been conducted. If the rejection is because of information obtained from a Credit Bureau, the source of the report must be revealed to the applicant in accordance with the Fair Credit Reporting Act. A current list of prospective tenants will be maintained.

e. The Agent will prepare all dwelling leases, parking permits, and will execute the same in its name, identified thereon as agent for the Owner. The terms of all leases will comply with the pertinent provisions of FmHA regulations. Dwelling leases will be in a form approved by the Owner and FmHA.

f. The Owner will furnish the Agent with rent and income reports as required by FmHA, showing rents as appropriate for dwelling units, and other charges for facilities and services, and income data pertinent to determinations of tenant eligibility and tenant rents. In no event will such rents and other charges be exceeded.

g. The Agent will counsel all prospective tenants regarding eligibility and will prepare and verify eligibility certifications and recertifications in accordance with FmHA requirements.

h. The Agent will collect, deposit, and disburse security deposits, if required, in accordance with the terms of each tenant's lease. Security deposits will be deposited by the Agent in an interest-bearing account, if required by state law, separate from all other accounts and funds, with a bank or other financial institution whose deposits are insured by an agency of the United States Government, and a pro rata share of interest earned will be credited to each tenant's security deposit. This account will be carried in the Agent's name and designated of record as "(Name of Project) Security Deposit Account."

**11. Collection of Rents and Other Receipts.** The Agent will collect when due all rents, charges, and other amounts receivable on the Owner's account in connection with the management and operation of the Project. Such receipts will be deposited immediately in the General Fund Account with a bank whose deposits are insured by the Federal Deposit Insurance Corporation.

**12. Enforcement of Leases.** The Agent will secure full compliance by each tenant with the terms of the lease. Voluntary compliance will be emphasized. The Agent, utilizing the services of local social service agencies when available, will counsel tenants and make referrals to community agencies in cases of financial hardship or under other

circumstances deemed appropriate by the Agent. Involuntary termination of tenancies should be avoided to the maximum extent consistent with sound management of the Project. Nevertheless, and subject to the pertinent procedures prescribed in the Management Plan, the Agent may initiate action to terminate any tenancy when, in the Agent's judgement, there is material noncompliance with the lease or other good cause, as prescribed by FmHA regulations for such termination. The tenant must be given notification in accordance with FmHA regulations and must be notified of his/her right to appeal the proposed action. Subject to the Owner's approval, attorney's fees and other necessary costs incurred in connection with such actions will be paid out of the Operation and Maintenance Account as Project expenses.

**13. Maintenance and Repair.** The Agent will cause the Project to be maintained and repaired in accordance with the Management Plan and local codes, and in a condition at all times acceptable to the Owner and FmHA. This will include but is not limited to cleaning, painting, decorating, plumbing, carpentry, grounds care, and such other maintenance and repair work as may be necessary, subject to any limitations imposed by the Owner in addition to those contained herein.

Incident thereto, the following provisions will apply:

a. Special attention will be given to preventive maintenance, and to the greatest extent feasible, the services of regular maintenance employees will be used.

b. Subject to the Owner's prior approval, the Agent will contract with qualified independent contractors for the maintenance and repair of air-conditioning systems and elevators, and for extraordinary repairs beyond the capability of regular maintenance employees.

c. The Agent will systematically and promptly receive and investigate all service requests from tenants, take such action thereon as may be justified, and will keep records of the same. Emergency requests will be received and serviced on a twenty-four (24) hour basis. Serious complaints will be reported to the Owner after investigation.

d. The Agent is authorized to purchase all materials, equipment, tools, appliances, supplies and services necessary for proper maintenance and repair with prior approval of the owner.

e. Notwithstanding any of the foregoing provisions, the prior approval of the Owner will be required for any expenditure which exceeds — Dollars (\$ —) in any one instance for labor, materials, or otherwise in connection with the maintenance and repair of the Project. This limitation is not applicable for recurring expenses within the limits of the operating budget or emergency repairs involving manifest danger to persons or property, or required to avoid suspension of any necessary service to the Project. In the latter event, the Agent will inform the Owner of the facts as promptly as possible.

**14. Utilities and Services.** In accordance with the Management Plan, the Agent will make arrangements for water, electricity, gas, fuel oil, sewage and trash disposal, vermin

extermination, decorating, laundry facilities, and telephone service. Subject to the Owner's prior approval, the Agent will make such contracts as may be necessary to secure such utilities and services acting as agent for the owner.

15. *Employees.* The Management Plan prescribes the number, qualifications; and duties of the personnel to be regularly employed in the management of the Project, including a Resident Manager, maintenance, bookkeeping, clerical and other managerial employees. All such personnel will be employees of the Agent and not the Owner, and will be hired, paid, supervised, and discharged by the Agent.

16. *Records and Reports.* In addition to any other requirements specified in the Management Plan or other provisions of this Agreement, the Agent will have the following responsibilities with respect to records and reports.

a. The Agent will establish and maintain a comprehensive system of records, books, and accounts in a manner conforming to the directives of FmHA, and otherwise satisfactory to the Owner. All records, books, and accounts will be subject to examination at reasonable hours by any authorized representatives of the Owner, FmHA, and other authorized agencies or persons. At a minimum, the Agent will establish on the books the following accounts, which shall be maintained so long as the FmHA loan obligations remain unsatisfied: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, a Reserve Account, and a Security Deposit Account. Funds in these accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation.

(1) *General Fund Account.* All income and revenue from the housing, shall upon receipt be immediately deposited in the General Fund Account. The Owner and the Agent may also in their discretion at any time deposit therein other funds, not otherwise provided for by this agreement, to be used for any of the purposes authorized in items (2), (3), or (4) below. Funds in the General Fund Account shall be used only as indicated in these items and as specifically authorized in the Owner's Loan Agreement or Resolution with FmHA, and until so used, shall be held by the Agent in trust for the Government as security for the FmHA loan obligations.

(2) *Operation and Maintenance Account.* Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account sufficient amounts to enable payment from the Operation and Maintenance Account of the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses, occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes, insurance, and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the

housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

(3) *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in item (2), or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the FmHA loan. Funds in the Debt Service Account shall be used only for payments on the loans obligations and, until so used, shall be held by the Agent in trust for the Government as security therefor.

(4) *Reserve Account.* Immediately after each transfer to the Debt Service Account any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in the Owner's loan agreement or loan resolution, and until so used, shall be held by the Agent in trust as security for the FmHA loan obligations. Transfers at a rate not less than the amount specified in the Owner's loan agreement or loan resolution shall be made to the Reserve Account until the amount in the Reserve Account reaches the required sum, and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Owner, consist of an amount, referred to as the "prepayment reserve." Funds in the cash reserve shall be deposited in a separate account or accounts or invested in savings certificates insured by the Federal Deposit Insurance Corporation (FDIC), the Federal Savings and Loan Insurance Corporation (FSLIC), or the National Credit Union Association (NCUA), or invested in readily marketable obligations of the United States Treasury Department, the earnings on which shall accrue to the Reserve Account.

(5) *Security Deposit Account.* Tenant security deposits shall be deposited into a separate bank account or accounts insured by the Federal Deposit Insurance Corporation, and shall be handled in compliance with any State or local laws governing tenant security deposits. Any balance in the tenant security deposit account which is retained as a result of lease violations and any funds earned on the Security Deposit Account which is not payable to the respective tenants shall be transferred to the General Fund Account and treated as income of the project.

b. The Agent will furnish such information (including occupancy reports) as may be requested by the Owner or the FmHA from time to time with respect to the financial,

physical, or operational condition of the Project.

c. The Agent will prepare and submit: Form FmHA 444-8—Tenant Certification Form FmHA 444-29—Project Worksheet for Interest Credit and Rental Assistance (Proposed) Form FmHA 1930-6—Monthly Report (Proposed) Form FmHA 1930-7—Statement of Budget, Income and Expense (Proposed) Form FmHA 1930-8—Year End Report and Analysis

d. The Agent will assist the owner in completing all additional forms and data prescribed by FmHA affecting the operation and maintenance of the project.

17. *Fidelity Bond.* The Agent will furnish, at its own expense, a fidelity bond in the principal sum of — Dollars (\$—), which is at least equal to the gross potential income for two months and cash on hand and is conditioned to protect the Owner and FmHA against misapplication of Project funds by the Agent and its employees. The United States will be named as co-obligee in the bond at the time of FmHA loan closing if not prohibited by State law. The other terms and conditions of the bond, and the surety thereon, will be subject to the approval of the Owner.

18. *Bids, Discounts, Rebates, etc.* With prior approval of the owner, the Agent will obtain contracts, materials, supplies, utilities, and services on the most advantageous terms to the Project, and is authorized to solicit bids, either formal or informal, for those items which can be obtained from more than one source. The Agent will secure and credit to the Owner all discounts, rebates, or commissions obtainable with respect to purchases, service contracts, and all other transactions on the Owner's behalf.

19. *Insurance.* The Owner will inform the Agent of insurance to be carried with respect to the Project and its operations, and the Agent will cause such insurance to be placed and kept in effect at all times. The Agent will pay premiums out of the Operating and Maintenance Account, and premiums will be treated as operating expenses. All insurance will be placed with such companies, on such conditions, in such amounts, and with such beneficial interests appearing thereon as shall be acceptable to the Owner and the FmHA provided that the same will include public liability coverage, with the Agent designated as one of the insured in amounts acceptable to the Agent as well as the Owner and FmHA. The Agent will investigate and furnish the Owner with full reports as to all accidents, claims, and potential claims for damage relating to the Project, and will cooperate with the Owner's insurers in connection therewith.

20. *Compliance with Governmental Orders.* The Agent will take such action as may be necessary to comply promptly with any and all governmental orders or other requirements affecting the Project, whether imposed by federal, state, county or municipal authority, subject, however, to the limitation stated in Subsection 13e of this Exhibit with respect to repairs. Nevertheless, the Agent shall take no such action so long as the Owner is contesting, or has affirmed its intention to contest, any such order or



requirement. The Agent will notify the Owner in writing of all notices of such orders or other requirements, within seventy-two (72) hours from the time of their receipt.

21. *Nondiscrimination.* In the performance of its obligations under this Agreement, the Agent will comply with the provisions of any Federal, State or local law prohibiting discrimination in housing on the grounds of race, color, creed, sex, age, marital status, national origin, or physical or mental handicap (applicant must have capacity to execute a legal contract) including Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 78 Stat. 241), Title VIII of the Civil Rights Act of 1968, Executive Order 11246, and the Equal Credit Opportunity Act of 1974, as they relate to the Farmers Home Administration (FmHA).

22. *Agent's Compensation.* The Agent will be compensated for its services under this Agreement by monthly fees, to be paid from the Operating and Maintenance Account and treated as project expenses. Such fees will be payable on the — day of each month for the preceding month. Each such monthly fee will be in an amount computed as follows: —% (\$—) of the actual gross rents collected for the preceding month.

23. *Term of Agreement.* This Agreement shall be in effect for a period of — year(s), beginning on the — day of —, 19—, subject, however to the following conditions:

a. This Agreement will not be binding upon the Principal Parties until approved by FmHA.

b. This Agreement may be terminated by the mutual consent of the Principal Parties as of the end of any calendar month, provided that at least thirty (30) days advance written notice thereof is given to FmHA.

c. In the event that a petition in bankruptcy is filed by or against either of the Principal Parties, or in the event that either makes an assignment for the benefit of creditors or takes advantage of any insolvency act, the other party may terminate this Agreement without notice to the other, provided that prompt written notice of such termination is given to FmHA.

d. Upon termination, the Agent will submit to the Owner any financial statements required by the FmHA, and after the Principal Parties have accounted to each other with respect to all matters outstanding as of the date of termination, the Owner will furnish the Agent security, in form and principal amount satisfactory to the Agent, against any obligations or liabilities which the Agent may properly have incurred on behalf of the Owner hereunder.

24. *Interpretative Provisions.* a. This Agreement constitutes the entire agreement between the Owner and the Agent with respect to the management and operation of the Project, and no change will be valid, unless made by supplemental written agreement, approved by FmHA.

b. This Agreement has been executed in several counterparts, each of which shall constitute a complete original Agreement, which may be introduced in evidence or used for any other purpose without production of any of the other counterparts.

In witness whereof, the Principal Parties [by their duly authorized officers] have executed this Agreement on the date first above written.

Owner: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Witness: \_\_\_\_\_  
Agent: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Witness: \_\_\_\_\_

Approved as lender or insurer of funds to defray certain costs of the project and without liability for any payments hereunder, the Farmers Home Administration hereby approves this Agreement.

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

#### Exhibit B-4—Questionnaire for Management Agent of FmHA Multiple Family Housing Projects

Please provide a written signed statement giving your answers in the same order, to the questions that follow. Please be brief and concise in your answers and indicate if a certain question is not applicable in your particular case. Your statement will be used by FmHA to evaluate your capacity to successfully manage the project.

1. Provide name of Managing Agent, address name of project, location of project, and the name of the owner.

2. Provide information as to previously or presently managed projects including information relative to default history, mortgage relief history, and foreclosure history along with an explanation of the circumstances that led to such actions.

3. Give description of your firm including number of staff employed in the following capacities: supervisory, clerical, maintenance, and social services.

4. Give the distance in miles from your home or branch office to the project.

5. Describe the accounting system, rent-up procedure, rent-collection policy, and preventive maintenance program you intend to use in the proposed project.

6. Describe your relationship with the owner and your knowledge of the intended degree of owner involvement in operating the project.

7. Describe the frequency and type of direct supervision to be given the resident manager.

8. Give a description of your financial stability and financial resources.

9. Describe applicable FmHA accounting requirements for your particular type of project. If you have managed this type of

project previously, cite those projects as a showing of your knowledge of such requirements. If you have not had such projects, indicate your understanding of what needs to be done to fulfill such requirements.

10. Please also describe:

(a) Your plans, if any, for handling tenant grievances and appeals, forming a tenant organization, providing tenant counseling, and using outside social service agencies.

(b) The extent of your knowledge of FmHA requirements as to tenant eligibility, tenant certifications and recertifications.

(c) Your plans, if any, to train your personnel in the management of FmHA multifamily housing.

11. Provide evidence of fidelity bonding capacity.

12. Include the following statement: "I hereby certify that there is no close association between the management Agent and the Owner of the above described project in such manner that creates a possible conflict of interest." If such an association exists (e.g. the management agent is a member, stockholder, partner, principal, etc., of the borrower organization) explain in detail.

#### Exhibit B-5—Questionnaire for Owners of FmHA Multiple Family Housing Projects

Please provide a written signed statement responding in the same order to the items that follow. Please be brief and concise in your answers and indicate if a certain item is not applicable in your case. Your statement will be used by FmHA to evaluate your capacity to successfully operate the project.

1. Provide name of Owner, address, and the name and location of project. State the number of units included in the proposal.

2. Provide information on your previous projects regardless of the source of financing, including such information as mortgage relief and foreclosure history along with an explanation of the circumstances that led to such actions.

3. List names and addresses of management agents used to manage your previously or presently owned projects.

4. Describe your understanding of the responsibilities connected with owning and managing a multifamily project under FmHA.

5. Outline your experience and capabilities in providing housing for low and moderate income tenants.

6. Describe your intended tenure of ownership and the extent of personal involvement in operating and managing this project.

7. Describe your intentions and capacity to meet cash flow deficit situations.

8. Describe your plans for the management of the proposed project. If you intend to manage the project, describe your management capacity by answering the "Questionnaire for Management Agent," Exhibit B-4 of this Subpart.

Report or item required	Due date	Prepared by	Report or item applicable to	Distribution	References and notes
<b>Monthly Reports</b>					
Project Worksheet for Interest Credit and Rental Assistance.	By the 10th of each month....	Borrower.....	All Borrowers-Individuals and Organizations.	Original and copy; copy retained by borrower, original to the FmHA district office.	Instructions for preparation contained in the FMI for Form FmHA 444-29.
Monthly Report (Form FmHA 1930-6) (proposed).	Submit to FmHA District Director by the 10th of each month; due in State Office within 15 days after end of month.	Borrower.....	All Borrowers.....	Copy to be retained by Borrower. Original & copy to FmHA District Office; District Director to forward a copy to State Office.	Reports will continue until notice for discontinuance is received from FmHA District Director. Instructions for preparation contained in the proposed Form FmHA 1930-6.
<b>Annual Reports</b>					
Verification of Account (in lieu of Audit Report) in accordance with FmHA Instruction 1930-C.	Within 45 days following close of borrower's fiscal year.	Competent individual, independent of the borrower, or by a committee of the membership not including any officer, director or employee of borrower.	Borrowers with 20 or less units.	Original and two copies to FmHA District Office; two copies to State Office. State Office will send one copy to National Office. Copy retained by Borrower.	
Statement of Budget, Income & Expense (Form FmHA 1930-7) (proposed).	Within 45 days following close of borrower's fiscal year.	Borrower.....	All Borrowers.....	Original and two copies to FmHA District Office; two copies to State Office. State Office sends one copy to National Office. Copy retained by Borrower.	Instructions for preparation are in the proposed FMI for proposed Form FmHA 1930-7.
Housing Allowance for Utilities & Other Public Services (Exhibit F-5A to FmHA Instruction 444.5).	Submitted with Form FmHA 1930-7 "Statement of Budget, Income & Expense".	Borrower.....	Plan II and Rental Assistance Borrowers where tenant pays any utilities.	Original and two copies to FmHA District Office with backup data; District Office returns original to Borrower after obtaining State Office approval.	Instruction for preparation in Exhibit F-5A to FmHA Instruction 444.5.
Year End Report and Analysis (Form FmHA 1930-8) (proposed).	Within 45 days following close of borrower's fiscal year.	Borrower.....	All Borrowers-Individuals & Organizations.	Copy retained by borrower. Original and two copies to FmHA District Office. District Office will send original and two copies to State Office. State Office will send National Office one copy and return original to District Office.	Instructions for preparation in the FMI (proposed FMI for proposed Form FmHA 1930-8).
Minutes of Annual Meeting.....	Within 45 days following close of borrower's fiscal year.	Borrower.....	All Organizational Borrowers with governing bodies, and all corporations.	Two copies to FmHA District Office; one to be sent by District Office to State Office.	
Audit Report.....	Within 45 days following close of borrower's fiscal year.	Borrower's CPA or LPA in accordance with booklet "Instructions to Independent Certified Public Accountants & Licensed Public Accountants Performing Audits of FmHA Borrowers & Grantees".	Borrowers with 21 or more units in one or more projects, or as required by State Director of FmHA.	Original and two copies to FmHA District Office; two copies to be sent to State Office. State Office will send National Office a copy. Copy retained by Borrower.	
Report or item required	Due date	Prepared by	Report or item applicable to	Distribution	Examples and notes
<b>Miscellaneous Reports or Submittals</b>					
Request for Rental Assistance (Form FmHA 444-25).	When rental assistance is requested.	Borrower.....	Multiple Family Housing Borrowers and Applicants with tenants paying rent in excess of 25% of their adjusted income.	Original and copy to District Office; submit to State Office for approval after District Office review.	Refer to FmHA Instruction 444.5, Exhibit R, for material to be included with request.
Compliance Reviews Review will be conducted within the 1st reporting year after the loan is closed or after Form FmHA 400-4 "Nondiscrimination Agreement" is signed.	November 1st to October 31st of each year.	FmHA District Director.....	All Multiple Family Housing Borrowers.	Original to State Office; copy retained in District Office.	
(a) Initial reviews Form FmHA 400-8, "Compliance Review".	To be completed only after all units are occupied.	.....	.....	.....	.....
(b) Subsequent Reviews Form FmHA 400-8.	Minimum of every 3 years.....	.....	.....	.....	.....

**Exhibit C—Rent Increases**

**I. Objectives:** The basic objective of this Exhibit is to provide a method of processing requests for increases in the monthly rental rates for tenants in Farmers Home Administration (FmHA) Rural Rental Housing (RRH) and Labor Housing (LH) projects. This Exhibit covers all RRH and LH loans

including those approved before the date of this Subpart.

**II. Initial Understanding With Borrower:** All RRH and LH applicants will be informed at the time of application that rental rates in projects financed in whole or in part by an RRH or LH loan cannot be raised without

FmHA consent in accordance with requirements in loan agreements, loan resolutions, and other instruments executed in connection with RRH and LH loans. Borrowers should be encouraged to have the effective date of needed rent increases coincide with the start of their fiscal year.

Rental increase requests, therefore, normally should be made at least 60 days prior to the end of the borrower's fiscal year. It is anticipated that rent increases would not be necessary more than once a year. All borrowers should be encouraged to participate in the Rental Assistance Program. However, borrowers with projects meeting the eligibility requirements of paragraph II D of Exhibit R Part 1822 Subpart D (FmHA Instruction 444.5) will be *required* to participate in the Rental Assistance program if it appears that a rent increase will cause 20 percent or more of the low-income tenants to pay in excess of 25 percent of their adjusted monthly income for their costs of rent and utilities. All borrowers will be advised that all proposed rent increases are subject to compliance with this Exhibit. This Exhibit will also apply to rent increases resulting from HUD's Automatic Adjustment Factors for units receiving Section 8 assistance.

### *III. Borrower's Responsibility in Processing Requests:*

A. When an RRH or LH borrower determines that a rental increase is needed, the borrower should provide FmHA with the following information:

1. An application for Rental Assistance on Form FmHA 444-25, "Request For Rental Assistance," if the borrower's project is an eligible project and the proposed rent increase will cause 20 percent or more of the low-income tenants to pay in excess of 25 percent of their adjusted monthly income for the costs of rent and utilities.
2. Facts demonstrating the need and justification for a rent increase.
3. Current year's operating budget showing actual income and expenses for the project to date and estimating the income and expenses for the remainder of the year.
4. A new operating budget based on the old rates covering the period to the effective date of the proposed rent increase and then using the new rates to the end of the operating year selected by the borrower, if applicable.
5. A budget for the next full year of operation using the proposed rents for each size unit.
6. Current tenant Certifications on Form FmHA 444-8 or other form approved by FmHA.

7. A dated copy of the Notice required by paragraph III B of this Exhibit.

8. Any other information the borrower believes necessary to justify the proposed rent increase.

B. The borrower will notify tenants of any proposed rent increase unless an exception is permitted in accordance with paragraph III C of this Exhibit. Tenants must be notified by the following methods on the same date the application for the proposed rent increase is submitted to FmHA:

1. Post prominently in common areas around the project (laundry rooms, parking areas, recreation rooms, etc.) a Notice to Tenants of Proposed Rent Increase (hereinafter referred to as Notice) in the format of Exhibit C-1. In addition to English all notifications will be published in the other primary languages of the tenants, and will:
  - a. Advise the tenants that during a 30-day waiting period in which the Notice will be posted, they have an opportunity to inspect,

copy, and make written comments or objections to all materials justifying the proposed rental increase which will be made available to them.

b. Advise the tenants that all written comments or objections should be submitted directly to the FmHA District Director by the end of the 30 day waiting period.

2. Give or mail copies of the Notice to all tenants.

3. After the 30 day waiting period has ended, submit any other information to be considered to the District Director.

C. Notification to the tenant of proposed rent increase will not be required in the following instances:

1. When the borrower is receiving either FmHA rental assistance or HUD Section 8 (New Construction) on all units, and all tenants are eligible tenants participating in the rent subsidy program.

2. When an increase in the utility allowance only is proposed on Exhibit F-5A Part 1822 Subpart D (FmHA Instruction 444.5) and the utilities are paid directly by the tenants.

3. This does not preclude posting of the FmHA Letter of Approval as provided for in paragraph IV B 2 of this Exhibit.

### *IV. Determination by FmHA:*

A. *Actions by District Director.* When the application and all attachments for the proposed rent increase have been submitted (including the tenant comments when notification is required), the District Director will:

1. Review the application, past year's budgets, planned budgets, schedule for proposed rents, and other information submitted.

2. Write a short narrative describing the general tone of the tenant comments and complaints.

3. Provide copy of the borrower's latest Form FmHA 444-29, "Project Worksheet for Interest Credit and Rental Assistance."

4. Determine whether the borrower's project is eligible to receive Rental Assistance on behalf of the low-income tenants of the project and whether or not rental assistance is available for borrowers project.

5. Provide recommendations concerning whether the proposed increase should be approved, and if the borrower's project is eligible for Rental Assistance, whether the borrower should be required to participate in the Rental Assistance program.

6. Submit all the material, including tenant comments or objections received, to the State Director within 10 days after receipt from the borrower.

B. *Actions by the State Director.* When the application and attachments with comments have been submitted, the State Director will review the material to make a determination on the rent increase.

1. *Disapproval Actions.* When the State Director determines an application for a proposed rent increase is not justified on the basis of the information submitted, the State Director will directly, or through the District Director, notify the borrower in writing stating the reason(s) why the rent increase is not authorized. Rent increases may not be authorized if any of the following circumstances exist:

a. The borrower is able but unwilling to comply with applicable tenant eligibility requirements, the audit and reporting requirements of this Subpart or the conditions set forth in the borrower's loan agreement or resolution, interest credit and/or rental assistance agreement, form of note, or mortgage.

b. The budget for the project reflects sufficient income at the present rent structure to meet operation and maintenance expenses which are appropriate and reasonable in amount, meet the FmHA debt service requirements, meet the required reserve account deposit, and provide a return to the borrower, if appropriate.

c. The borrower's project is operated on a profit basis as defined in § 1822.83(s) of Subpart D to Part 1822 (paragraph III S of FmHA Instruction 444.5) and the proposed rent increase is for purposes other than meeting operation and maintenance expenses and debt service; i.e., the purpose is profit margin motivated, and the proposed rent increase will result in rental rates in excess of what eligible tenants can afford. FmHA may approve the rent increase and enable the borrower to make a profit if the borrower is willing to operate on a limited profit basis as defined in § 1822.83(p) of Subpart D to Part 1822 (paragraph III R of FmHA Instruction 444.5). By operating on a limited profit basis, the borrower will be able to participate in the rental assistance program. All borrowers operating on a profit basis should be encourage to convert to a limited profit basis.

d. The borrower's project is operated on either a nonprofit basis or limited profit basis as defined in § 1822.83(r) of Subpart D to Part 1822 (paragraph III R of FmHA Instruction 444.5), the borrower is not willing to participate in the rental assistance program, 20 percent or more of the low-income tenants of the project are eligible to receive rental assistance, and the State Director is able to provide the rental assistance units to the project.

2. *Approval Actions.* When a rent increase is approved, the State Director will notify the borrower by a Letter of Approval of the amount of rent increase approved. The letter must:

a. Show the current rate(s), the rate(s) requested, and the rates(s) approved.

b. Contain concise statements of FmHA's reasons for approval of the rent increase.

c. Indicate that it does not authorize the borrower to violate the terms of any lease with the tenants.

d. For those projects where there is rental assistance and/or HUD Section 8 assistance, explain that for those eligible to receive subsidy assistance, their costs for rent and utilities will continue to be based on 25 percent of their adjusted monthly income.

e. Require that the borrower must notify the tenants individually at least 30 days before any approved increase is put into effect.

f. For profit motivated borrowers which do not desire to convert to limited profit and apply for rental assistance, and where rental assistance units are not available, suggest that the borrower advise tenants of the availability of Section 8 assistance for low-income tenants and that they may apply to

the local HUD office or State or local Public Housing Agency for certification of eligibility.

g. Advise the borrower and the tenants of either party's right to file an appeal regarding the rent increases as approved within 45 days of the date of the notice by writing to the Administrator, Farmers Home Administration, Washington, D.C. 20250. Until the appeal is resolved, the tenants are required to pay the increased amount of rent as indicated in the Notice of Approval.

h. Require that the borrower post the Letter of Approval in a conspicuous place for the information of the tenants.

3. **Automatic Adjustment Factors for Section 8 Units.** If the State Director disapproves a rental rate increase requested as a result of HUD's automatic adjustment increase for units receiving Section 8 assistance or approves a rent increase for a lesser amount than the increase permitted by HUD, the State Director must require the borrower to deposit any excess funds into the Reserve Account.

4. **Return on Investment.** Limited profit borrowers can take their 8 percent return if the project produces adequate income to cover all expenditures in accordance with the actual "Statement of Budget Income and Expense." If income is not adequate in any given accounting year to cover the return to owner, the return can not be recouped in future years.

V. **Special Problem Cases:** Problem cases which cannot be handled under this Subpart should be submitted to the National Office for review with the State Director's recommended plan of action.

#### Exhibit C-1—Notice to Tenants of Proposed Rent Increase

Date Posted \_\_\_\_\_  
This will advise you that the \_\_\_\_\_ has filed with the Farmers Home Administration (FmHA), United States Department of Agriculture, a request to approve an increase in the monthly rental rates of the \_\_\_\_\_ project for the following reasons:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

Planned rent increases are as follow:

Project name \_\_\_\_\_  
Unit \_\_\_\_\_  
Present rent \_\_\_\_\_  
Proposed rent \_\_\_\_\_  
Amount increase \_\_\_\_\_

Use where applicable \_\_\_\_\_

Since you receive rent subsidy, your rent will not be changed so long as your income remains unchanged.

All materials justifying the proposed rent increase will be made available for the tenants to inspect and copy \_\_\_\_\_ during the hours of \_\_\_\_\_.

Tenants may submit comments in writing to the District Director of the FmHA District Office for a 30 day period or until \_\_\_\_\_. The FmHA District Director is \_\_\_\_\_, and the District Office is located at \_\_\_\_\_.

These comments will be reviewed by the FmHA District Director and forwarded to the FmHA State Director and a decision will be made as to whether the rent increase should be granted.

Each tenant will be notified of the FmHA decision and the effective date of any authorized rent increase.

By \_\_\_\_\_  
Borrower or Borrower's Representative  
(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations". A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, Washington, D.C. 20250.

Proposed forms referenced in this regulation regarding accounting and reporting requirements are being sent to the Office of Management and Budget for clearance.

Dated: November 26, 1979.  
Gordon Cavanaugh,  
Administrator, Farmers Home  
Administration.  
[FR Doc. 79-37168 Filed 12-4-79; 8:45 am]  
BILLING CODE 3410-07-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

#### 10 CFR Part 211

[Docket No. ERA-R-79-23C]

#### Motor Gasoline Allocation; Adjustments and Downward Certification; Proposed Rulemaking and Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing in proposed form a motor gasoline downward

certification provision similar to an earlier provision whose effective date has previously been deferred.

The proposed rule would establish a downward adjustment and certification procedure for wholesale purchaser-resellers of motor gasoline when their supply obligations decrease. The adjustment would correspond to the decrease in resellers' supply obligations when retail sales outlets and bulk purchasers they served during the base period go out of business.

As to those firms which (1) operate more than one motor gasoline retail sales outlet, (2) close a portion of their outlets and (3) apply to ERA for an adjustment of the base period uses of their remaining outlets, the proposed rule would permit automatic adjustments in the interim pending ERA action.

The proposal would also consolidate the regulatory provisions relating to certification of both upward and downward adjustments of resellers' allocation entitlements of motor gasoline.

**DATES:** Written comments by January 31, 1980; requests to speak by 4:30 p.m. December 31, 1979 for the Atlanta and San Francisco hearings, and by January 15, 1980 for the Washington, D.C. hearing. Hearing dates: Washington, D.C. hearing—January 24-25, 1980; Atlanta hearing—January 18, 1980; San Francisco hearing—January 9, 1980. If necessary, each hearing will continue at 9:30 a.m. the following day.

**ADDRESSES:** All comments and requests to speak for the Washington, D.C. hearing to: Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-79-23C, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

Other requests to speak: Atlanta hearing—Department of Energy, Region IV, 1655 Peachtree Street, NE., Atlanta, Georgia 30309, Attn: Betty Camp; San Francisco hearing—Department of Energy, Region IX, 111 Pine Street, 3rd Floor, San Francisco, California 94111, Attn: Terry Osborne.

Hearing locations: Washington, D.C. hearing—Room 2105, 2000 M Street, NW., Washington, D.C.; Atlanta hearing—Atlanta Civic Center, 395 Piedmont Avenue, NW., Atlanta, Georgia; San Francisco hearing—Deloris Room, The Hyatt at Union Square Hotel, 345 Stockton Street, San Francisco, California.

#### FOR FURTHER INFORMATION CONTACT:

Robert G. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2214B, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-5201.

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.

William Caldwell (Regulations & Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-3910.

Alan Lockard (Office of Petroleum Operations), Economic Regulatory Administration, Room 6222, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-7422.

Joel M. Yudson (Office of General Counsel), Department of Energy, Room 6A-127, 10000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6744.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### II. Amendments Proposed

- A. Downward Adjustment Provision
- B. Consolidation of Wholesale Purchaser-Resellers' Adjustment Provisions
- C. Proposed Changes to § 211.106
- D. Alternative Proposed Downward Adjustment Provisions

##### III. Procedural Requirements

##### IV. Written Comment and Public Hearing Procedures.

##### I. Background

On July 15, 1979 we issued final rules amending the motor gasoline allocation regulations (44 FR 42549, July 19, 1979). These rules were to go into effect on September 1, 1979 and, with one exception, did go into effect on that date. The exception related to a downward adjustment procedure, contained in 10 CFR 211.107(d), for wholesale purchaser-resellers of motor gasoline whose supply obligations to retail sales outlets decrease.<sup>1</sup> In the July 15 notice, we continued the rulemaking for the purpose of receiving further written comments until September 20, 1979.

On August 22, 1979 we issued a notice deferring the effective date of the downward certification procedure until October 1, 1979, in order to enable us to receive and analyze the written comments already requested on this provision (44 FR 50325, August 28, 1979). We took this action in response to comments received up to that time from several gasoline marketing groups expressing uncertainty and concern

about the scope and applicability of the provision. In addition, on September 6, 1979, DOE's Motor Gasoline Marketing Advisory Committee recommended that DOE conduct a public hearing on the issues related to downward certification.

On September 11, 1979, we announced we would issue a notice of proposed rulemaking with respect to downward adjustments and that the effective date of § 211.107(d) was deferred pending completion of the rulemaking proceeding (44 FR 54041, September 18, 1979). This notice addresses the issues related to downward adjustment.

#### Section 211.106 and Ruling No. 1974-13

The July 15 notice did not amend and made no mention of 10 CFR 211.106 in connection with the downward certification provision. Nor did we discuss the relationship of the downward certification provision to the Federal Energy Administration (FEA)<sup>2</sup> Ruling No. 1974-13 which, *inter alia*, discusses the various options under § 211.106 available to a marketer that wishes to close an outlet and to increase the volumes supplied to its remaining outlets.

Had the downward certification provision gone into effect, it would have limited marketers' ability to redistribute gasoline from closed outlets to others remaining open. With respect to firms that wish to redistribute gasoline from stations they operate and close to those they operate that remain open, § 211.106(c)(2) provides a means of relief. Ruling 1974-13 states that any entity which operates more than one retail sales outlet and closes or intends to close one or more such outlets may petition ERA pursuant to § 211.106(c)(2)(i) for an adjustment to the base period use of its retail sales outlets which will remain in business. A grant of such a petition would permit an increase in the base period use of the remaining retail sales outlets which the petitioner operates by an amount which does not exceed the base period use of the retail sales outlet or outlets which the petitioner closes or intends to close. The section also provides that pending review of the petition, ERA may order an interim adjustment to the base period use of the retail sales outlets which the petitioner will continue to operate.

However, under the current regulations with no downward certification provision in effect other than § 211.13(f), such marketers wishing

to distribute additional gasoline need not await ERA action.

Section 211.106(d)(2) provides:

Whenever an operator of a retail sales outlet goes out of business with respect to that retail sales outlet under paragraph (c) of this section, the supplier of that outlet shall, in calculating its allocation fraction, remove the amount of the allocation entitlement of that retail sales outlet from its supply obligation, unless the right to such allocation has transferred to a successor wholesale purchaser-reseller under paragraph (e) of this section.

Without a general downward certification provision in place,<sup>3</sup> when the obligation to supply the closed outlet is removed, a marketer desiring to distribute the gasoline which would have gone to the closed outlet would be required first to raise its allocation fraction and thereby to increase the supplies it makes to all of its other customers. This is made clear in Ruling 1974-13 which states:

An independent marketer, or small or independent refiner which is the supplier of retail sales outlets which it operates generally should not petition for a § 211.106(c)(2)(i) adjustment since § 211.106(d)(2) provides for distribution of allocation entitlements among the retail sales outlets which it supplies whenever one of those retail sales outlets is closed. Section 211.106(d)(2) therefore insures that such entitlements stay within such supplier's distribution system \* \* \*. The effect of § 211.106(d)(2) is to increase the supply available to all customers of such suppliers regardless of whether they are operated by the supplier, whenever a retail sales outlet supplied by such a supplier is closed.

Because such suppliers would, in most instances, be able to get adequate relief by increasing their allocation fraction, the Ruling stated further that the agency will be reluctant to permit such a supplier to increase the base period volume of such supplier's own operated retail sales outlets to compensate for the closing of one of its retail outlets. It did state, though, that in compelling circumstances, petitions from such suppliers will be granted.

The downward certification provision adopted on July 15 would have altered, and as proposed today would alter, the effect of § 211.106. The rule would have required that when a supplier reduced its supply obligation, the supplier's own allocation entitlement would be

<sup>1</sup> On July 19, 1979, we issued a corrective amendment to that rule to include wholesale purchaser-consumers and bulk purchasers as categories of customers for which wholesale purchaser-resellers of motor gasoline would be required to make downward adjustments when such resellers' supply obligations decrease. We also made a technical amendment to the rule to clarify that the downward adjustment provision would have applied for marketer decreases in supply obligations that have occurred since the corresponding base period month and not just to prospective decreases (44 FR 43458, July 25, 1979).

<sup>2</sup> The FEA was a predecessor of the DOE and previously administered the provisions of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA, Pub. L. 93-159).

<sup>3</sup> 10 CFR 211.13(f), the only current provision dealing with downward adjustments, is limited in scope. It applies where a wholesale purchaser-reseller that has received an upward adjustment to its base period use based on an increased supply obligation to one of its purchasers subsequently terminates or significantly reduces its supply obligations to that purchaser. See DOE Interpretation No. 1978-24 to Nelson Oil Co. (43 FR 25078, June 9, 1978).

decreased by the same amount. Thus, unless ERA acted, the supplier would no longer have been able automatically to keep the product within its distribution system.

Under the July 15 rule, and under today's proposal, any supplier that wishes to keep the product it supplied to its own closed outlets within its own distribution system could continue to apply for relief under § 211.106(c)(2) or, where appropriate, for treatment as a single firm under § 211.106(b)(2). However, for a marketer that supplied independent firms that went out of business, there would be no regulatory means, other than through an exception, by which it could keep those volumes.

## II. Amendments Proposed

### A. Downward Adjustment Provision

We are proposing a new paragraph (g) to § 211.105. Section 211.105(g)(2) would replace the downward adjustment and certification provision that was adopted on July 15 but would not be changed in substance. Section 211.107(d) would be rescinded. Specifically, the proposal would require a wholesale purchaser-reseller to adjust downward its motor gasoline base period use for a current month by the amount that its supply obligations will decrease or have decreased since the corresponding base period month. For instance, the rule would apply when a retail sales outlet, wholesale purchaser-consumer or end user that is a bulk purchaser that a reseller supplies will go or has gone out of business.

As an example of the operation of this rule, assume that Firm A supplied Firm B, a retail sales outlet, 1,000 gallons of gasoline during November 1977. Firm B closed on November 30, 1977 and was supplied no gasoline by Firm A in any other months of the base period year. Under the proposal, during November 1979, Firm A would be required to reduce its allocation entitlement from its base period suppliers by 1,000 gallons. During months other than November, Firm A would not be required to make such an adjustment.

The proposed rule would also require the wholesale purchaser-reseller to certify the downward adjustment to its base period suppliers on a pro-rata basis in proportion to that part of its base period use received from each supplier in the corresponding base period month. Each supplier that receives a certification would then decrease its supply obligation to the wholesale purchaser-reseller by that amount, would downward adjust its own base period use by that amount and would

certify the adjustment to its base period suppliers.

The effect of the downward certification provision would be the matching of allocation entitlements with supply obligations. A reseller could increase its allocation entitlement only by increasing its supply obligations and certifying the adjustment upward.

The original basis for the downward adjustment and certification procedure was our belief that as the demands on a supplier decreased (that is, through reduced supply obligations), his allocation entitlement should likewise decrease so that the gasoline could be redistributed through the allocation system where it was needed. As we noted in the preamble to the July 15 rule, there was evidence that some suppliers were selling gasoline for which they no longer had a supply obligation on the spot market. This was and is a violation of the mandatory allocation regulations, but in the absence of a downward adjustment provision finding such violations was very difficult. Moreover, nothing in the existing regulations expressly required that when a supply obligation was reassigned from one supplier to another, the relinquishing supplier lost his entitlement to those volumes. On the other hand, the new supplier was allowed to certify upward the volumes under § 211.13(c). This clearly seems contrary to the objectives of the allocation program because it appears to result in increased supplies being allocated to areas or suppliers without a corresponding increase in demand.

In connection with the new proposal and its alternatives (discussed *infra*), we request comments, supported by data, if possible, on the assumptions underlying the downward adjustment provision. For instance, do closings of retail outlets reflect a decrease in demand for gasoline in the areas served by the affected suppliers, or do they merely represent a shift in demand from some stations to others? Is there some way to distinguish between closings which result from decreased demand and closings which only shift demand from a marginal station to a more profitable one?

### B. Consolidation of Wholesale Purchaser-Resellers' Adjustment Provisions

Under the current regulations, wholesale purchaser-resellers generally are authorized to increase their own base period use whenever their supply obligations increase because of assignments to supply new purchasers or adjustments to the base period use of their existing purchasers. This authority,

together with procedures for certifying the upward adjustments to the resellers' suppliers, is contained in 10 CFR 211.13(c) and pertains to all allocated products. A certification provision relating to resellers' downward adjustments should appropriately be located with the provision relating to upward adjustments.

Therefore, we are proposing to relocate the upward adjustment provision as it relates to wholesale purchaser-resellers of motor gasoline and place it in Subpart F of the allocation regulations in the same section as the provision on downward adjustments, § 211.105(g). The cross-references to § 211.13(c) in Subpart F would be similarly changed.

### C. Proposed Changes to § 211.106. Deletion of § 211.106(d)(2).

Under Subpart A of the current allocation regulations, a wholesale purchaser-reseller's supply obligations are automatically reduced when one of its base period purchasers goes out of business. Therefore, § 211.106(d)(2), stating that the allocation entitlement of a retail sales outlet that goes out of business is removed from its supplier's supply obligation is redundant. Thus, we have decided to propose the deletion of § 211.106(d)(2).

### Interim Adjustments Under § 211.106(c)(2)

Because the downward adjustment provision would also limit marketers' flexibility to distribute gasoline from closed retail outlets to those remaining open, adjustments, and especially interim adjustments, under § 211.106(c)(2) become more significant than previously. Firms that operate more than one retail outlet and close one or more outlets assert that they need to be able to redistribute the gasoline immediately to their remaining outlets, without waiting for ERA action. In this regard we are proposing to provide for automatic interim adjustments under § 211.106(c)(2) pending EPA action on the petition to adjust the base period use of the remaining outlets. Therefore, although a marketer would be required to certify to its suppliers the downward adjustment for the closed station, at the same time it could also certify an offsetting equivalent temporary upward adjustment for its remaining stations.

### D. Alternative Proposed Downward Adjustment Provisions

While we are proposing to adopt the same downward adjustment and certification provision we adopted in July 1979, we are sensitive to the concerns of independent marketers.



Thus, we are proposing and wish to receive comments on the following alternatives (See Appendix B for proposed regulatory language for each of the alternatives):

(1) A provision that would require downward adjustments only as a condition precedent to receiving an upward adjustment. Under this alternative, wholesale purchaser-resellers would not be required to adjust downward their base period uses when their supply obligations decrease except to the extent they wish to certify upward adjustments to their base period suppliers.

(2) A provision that would require downward adjustments when retail outlets close, but would not require downward adjustments when a reseller ceases to supply wholesale purchaser-consumers or bulk purchasers.

(3) A provision under which downward adjustments would only take place when one supplier's supply obligations are assumed by another supplier. To some extent this is already occurring when ERA Regional Offices approve reassignments of suppliers.

(4) A provision which would require downward adjustments only as to decreased supply obligations occasioned by events such as station closings that occurred subsequent to October 31, 1978, the end of the base period year. Such a rule would tend to allow firms to maintain supply patterns that developed during the base period year.

(5) A downward adjustment provision that would be prospective only from the date of the adoption of a final rule. Under this alternative, marketers would be able to keep the volumes they currently are entitled to unless their supply obligations decrease in the future.

Not all of these alternatives are mutually exclusive. Thus in the final rule we may select meritorious features from more than one alternative.

### III. Procedural Requirements

#### A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the DOE Act, we will refer this proposed rule to the Federal Energy Regulatory Commission for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The Commission will have until the close of the public comment period to make this determination.

#### B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15

U.S.C. 787 *et seq.*, Pub. L. 93-275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of the notice was sent to the EPA Administrator. The EPA Administrator does not anticipate that this rule would have an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

#### C. Executive Order 12044

We have determined that the proposal contained in this notice will not have a major impact as that term is described in section 9(b) of Order No. 2030, "Procedures For The Development And Analysis Of Regulations, Standards and Guidelines" (44 FR 1032, January 3, 1979), DOE's procedures for implementing Executive Order 12044. Thus, no regulatory analysis is required.

### IV. Written Comment and Public Hearing Procedures

#### A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the matters contained in this notice. Comments should be submitted by 4:30 p.m., local time, on the date and to the address indicated in the "Dates" and "Addresses" sections of this notice. Comments should be identified on the outside envelope and on the document with the docket number and the designation: "Motor Gasoline Allocation; Downward Adjustments and Certification." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

#### B. Public Hearings

1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in the notice, or represent a group or class of

persons that has an interest, you may make a written request for an opportunity to make oral presentation at each hearing by 4:30 p.m., local time, on the dates set forth in the "Dates" section of this notice. You should also provide a phone number where you may be contacted through the day before the hearing that you will attend.

If you are selected to be heard in Atlanta or San Francisco, you will be so notified before 4:30 p.m., local time, January 4, 1980 and for the Washington, D.C. hearing by January 17, 1980. You will be required to submit one hundred copies of your statement to the relevant hearing location on the morning of the hearings in Atlanta and San Francisco and by 4:30 p.m. on January 23, 1980 for the Washington, D.C. hearing.

2. *Conduct of the hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearings. They will not be judicial-type hearings. Questions may be asked only by those conducting the hearings. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearings to the address indicated above for requests to speak before 4:30 p.m., local time, on the day before the hearings. If you wish to have a question asked at the hearings, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearings, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of



8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcripts of the hearings from the reporters.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, we propose to amend Part 211 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., November 30, 1979.

David J. Bardin,  
Administrator, Economic Regulatory  
Administration.

#### Appendix A—Proposed Amendatory Language

1. Subparagraph (1) of paragraph (c) of § 211.13 is revised to read as follows:

#### § 211.13 Adjustments to base period volume.

(c) *Adjustments to a wholesale purchaser-reseller's base period use for new and increased allocation entitlements of purchasers.* (1) A wholesale purchaser-reseller shall be entitled to receive an adjustment to its base period use whenever (i) it is notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser; or (ii) it is notified of an adjustment granted pursuant to § 211.12(h), § 211.13(e), § 211.125(b) or § 211.145(b) to the base period use of a wholesale purchaser entitled to receive an allocation from that wholesale purchaser-reseller, in an amount equal to the increases in the allocation entitlements or new allocation entitlements which the wholesale purchaser-reseller is to supply.

2. Paragraph (e) of § 211.104 is revised to read as follows:

#### § 211.104 Unusual growth adjustment.

(e) An adjustment to a purchaser's base period use for a particular month determined under this section will automatically become part of the supplier's supply obligations and that supplier in turn may adjust upward its base period use and under the

procedures of § 211.105(g) may certify the adjustment to its base period suppliers.

3. Section § 211.105 is amended by revising paragraph (a)(3), by revising paragraph (c), by deleting paragraph (d)(3) and by adding paragraph (g) to read as follows:

#### § 211.105 Supplier/purchaser relationships.

(a) *New wholesale purchasers.* \* \* \*

(3) If a wholesale purchaser-reseller has accepted and is supplying proposed base period volumes to a purchaser that does not have base period volumes for a base period month; and the purchaser or supplier (on behalf of the purchaser) has applied to ERA for an assignment for those months; then the wholesale purchaser-reseller may, on an interim basis, include such volumes in its base period use as a temporary adjustment and may upward certify such volumes to its supplier in accordance with the provisions of paragraph (g) of this section.

(c) *Reassignments.* This paragraph applies to purchasers to whom assignment orders were issued during or after the base period which terminated one supply obligation and established another (i.e., reassignments, including three-party agreements).

(1) For the current months corresponding to base period months prior to the effective date of the assignment order, the newly assigned supplier will be the base-period supplier. Its supply obligation as a result of the reassignment will equal the volumes reassigned, or the actual purchases during the corresponding months of the base period from the supplier whose obligations were terminated, whichever is less. If actual base-period purchases from the supplier whose obligations were terminated exceed the volumes reassigned, the original base period supplier shall be the base-period supplier for the difference. Any other actual suppliers, whether they supplied before or after effectiveness of the assignment order, shall also be base period suppliers for the actual volumes supplied. The newly assigned base period supplier shall also be responsible to supply unattributable adjusted base period volumes determined under § 211.104 which would otherwise be the responsibility of the supplier whose obligations were terminated. The newly-assigned supplier, if it is willing, may, if an application is made to the ERA regional office for an assignment, supply on an interim basis the difference

between the assigned volumes and the actual purchases from the supplier whose obligations were terminated for the portion of the base period prior to effectiveness of the assignment, pending ERA action on the assignment application, and may upward certify such volumes to its supplier in accordance with the provisions of paragraph (g) of this section.

(2) For those base-period months after the reassignment order was issued, actual purchases and actual suppliers will determine base-period volumes and supply obligations.

#### (g) *Adjustments to a wholesale purchaser-reseller's base period use—*

(1) *New and increased allocation entitlements of purchasers.* (i) Notwithstanding the provisions of § 211.13(c), a wholesale purchaser-reseller of motor gasoline shall be entitled to receive an adjustment to its base period use whenever (A) it is notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser or end user; or (B) it is notified of an adjustment granted or allowed pursuant to § 211.12(h), § 211.13(e), § 211.104, § 211.105, or § 211.106 to the base period use of a wholesale purchaser or end user entitled to receive an allocation from that wholesale purchaser-reseller, in an amount equal to the increases in the allocation entitlements or new allocation entitlements which the wholesale purchaser-reseller is to supply.

(ii) A wholesale purchaser-reseller which is entitled to receive an adjustment to its base period use pursuant to paragraph (g)(1)(i) of this section may certify to and shall receive an adjustment to its base period use from its supplier or suppliers in proportion to that part of its base period use received from each supplier in the corresponding base period month.

(iii) All suppliers which receive a certification of an adjustment to base period use made pursuant to this paragraph shall in turn certify to their suppliers the amount of the adjustment and shall receive an adjustment in proportion to that part of their base period use received from each supplier to cover the certified increases granted under this paragraph.

(iv) When a wholesale purchaser-reseller certifies a new or increased allocation under this paragraph, if requested by its base period supplier, the wholesale purchaser-reseller's certification must contain a sworn statement that the information contained therein is true. If requested by

its base period supplier, the wholesale purchaser-reseller must also include the following information in the certification: (A) The proportion of motor gasoline that the wholesale purchaser-reseller purchased from its base period supplier in the corresponding base period months and (B) a statement that the wholesale purchaser-reseller has made all required certifications of downward adjustments under subparagraph (g)(2) of this paragraph.

(2) *Certification of downward adjustments.* A wholesale purchaser-reseller will adjust downward its motor gasoline base period use for a current month by the amount that its supply obligations will decrease or have decreased since the corresponding base period month. The wholesale purchaser-reseller shall certify the downward adjustment to its base period suppliers on a pro-rata basis in proportion to that part of its base period use received from each supplier in the corresponding base period month. Each supplier that receives a certification shall decrease its supply obligation to the wholesale purchaser-reseller by that amount, shall adjust downward its own base period use by that amount and shall certify the adjustment to its base period suppliers.

4. Section 211.106 is amended by revising subparagraph (2) of paragraph (c), by deleting subparagraph (2) of paragraph (d) and redesignating paragraph (d)(3) to read as follows:

**§ 211.106 Retail sales outlets.**

\* \* \* \* \*

(c) *Loss of allocation for going out of business.* \* \* \*

(2) *Closings of retail outlets after June 1, 1974.* An entity which operates more than one retail sales outlet and which intends to go or goes out of business at one or more such retail sales outlets may apply to ERA for an adjustment to the base period volumes of its retail sales outlets which will remain in business. ERA may allow such adjustments to the extent that the vacating of business at a particular retail sales outlet does not result in an inequitable distribution of motor gasoline in the market areas served by the entity and that such an adjustment would not otherwise be inconsistent with the objectives of the allocation program. In the interim pending ERA action on a filed application, the entity may adjust upward the base period volume of one or more of its retail sales outlets which will remain in business by a total amount that does not exceed the base period use of its retail outlets that go out of business. The entity may certify such volumes upward to its

supplier in accordance with the provisions of § 211.105(g).

(d) *Suppliers of retail sales outlets.* (1) The supplier of a retail sales outlet shall be that part of a firm which actually furnishes or physically delivers the gasoline to the retail sales outlet. The operator of one or more retail sales outlets shall not be considered the supplier of its own retail sales outlets unless it operates a terminal facility from which it furnishes a product to each outlet or unless it otherwise physically delivers the gasoline to each outlet.

(2) Any supplier which supplies its own operated retail sales outlets shall report to the National and appropriate regional ERA and to the appropriate State office whenever it ceases to supply any retail sales outlet, without regard to whether such retail sales outlet is operated by the supplier.

**§ 211.107 [Amended]**

5. Paragraph (d) of § 211.107 is rescinded.

**Appendix B—Alternative Proposed Amendatory Language in § 211.105(g) Regarding Downward Adjustments**

**Alternative (1):**

(g) *Adjustments to a wholesale purchaser-reseller's base period use—*

(1) *New and increased allocation entitlements of purchasers.* (i) Notwithstanding the provisions of § 211.13(a), a wholesale purchaser-reseller of motor gasoline shall be entitled to receive an adjustment to its base period use whenever (A) it is notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser or end user; or (B) it is notified of an adjustment granted or allowed pursuant to § 211.12(b), § 211.13(e), § 211.104, § 211.105, or § 211.106 to the base period use of a wholesale purchaser or end user entitled to receive an allocation from that wholesale purchaser-reseller; the adjustment shall be in an amount equal to the increases in the allocation entitlements or new allocation entitlements which the wholesale purchaser-reseller is to supply less the downward adjustment required by paragraph (g)(2) of this section.

[Paragraphs (g)(1)(ii), (g)(1)(iii) and (g)(1)(iv) would be the same as the main proposal.]

(2) *Downward adjustments.* Whenever a wholesale purchaser reseller is entitled to receive, in a current month, an upward adjustment for a new or increased allocation entitlement of a purchaser, it will adjust downward its motor gasoline base period use for the

current month by the amount that its supply obligations will decrease or have decreased since the corresponding base period month. The sum of the downward adjustments required in any month by this paragraph (g)(2) of this section shall not exceed the sum of the cumulative increases in the allocation entitlements or new allocation entitlements which the wholesale purchaser-reseller is to supply in that month.

**Alternative (2):**

[Section 211.105(g)(1) will be the same as the main proposal.]

(g)(2) *Certification of downward adjustments.* A wholesale purchaser-reseller will adjust downward its motor gasoline base period use for a current month by the amount that its supply obligations will decrease or have decreased when a retail sales outlet that it supplied will go or has gone out of business since the corresponding base period month. The wholesale purchaser-reseller shall certify the downward adjustment to its base period suppliers on a pro-rata basis in proportion to that part of its base period use received from each supplier in the corresponding base period month. Each supplier that receives a certification shall decrease its supply obligation to the wholesale purchaser-reseller by that amount, shall adjust downward its own base period use by that amount and shall certify the adjustment to its base period suppliers which in turn will make a corresponding downward adjustment.

**Alternative (3):**

[Section 211.105(g)(1) would be the same as the main proposal.]

(g)(2) *Certification of downward adjustments.* A wholesale purchaser-reseller will adjust downward its motor gasoline base period use for a current month by the amount that its supply obligations will decrease or have decreased since the corresponding base period month and it has been informed that such supply obligations have been assumed by another supplier. The wholesale purchaser-reseller shall certify the downward adjustment to its base period suppliers on a pro-rata basis in proportion to that part of its base period use received from each supplier in the corresponding base period month. Each supplier that receives a certification shall decrease its supply obligation to the wholesale purchaser-reseller by that amount, shall adjust downward its own base period use by that amount and shall certify the adjustment to its base period suppliers.

**Alternatives (4) and (5):**

[Section 211.105(g)(1) would be the same as the main proposal.]

(g)(2) *Certification of downward adjustments.* A wholesale purchaser-reseller will adjust downward its motor gasoline base period use for a current month by the amount that its supply obligations will decrease or have decreased *since October 31, 1978* [Alternative 4] OR *after (the effective date of this section)* [Alternative 5]. The wholesale purchaser-reseller shall certify the downward adjustment to its base period suppliers on a pro-rata basis in proportion to that part of its base period use received from each supplier in the corresponding base period month. Each supplier that receives a certification shall decrease its supply obligation to the wholesale purchaser-reseller by that amount, shall adjust downward its own base period use by that amount and shall certify the adjustment to its base period suppliers.

[FR Doc. 79-37381 Filed 12-4-79; 8:45 am]

BILLING CODE 6450-01-M

**CIVIL AERONAUTICS BOARD****14 CFR Part 241**

[EDR-392; Docket 37088; Dated: November 15, 1979]

**Passenger Origin-Destination Survey; Correction**

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Correction of notice of proposed rulemaking.

**SUMMARY:** The CAB is inviting public comment on a proposal that would require all U.S. certificated route air carriers offering scheduled passenger service (except helicopter and wholly intra-Alaska carriers) to participate in a Passenger Origin-Destination Survey based on a continuous sample of passenger tickets. This erratum makes a correction to the proposed rule published at 44 FR 67140, November 23, 1979.

**FOR FURTHER INFORMATION CONTACT:** Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Ave., NW., Washington, D.C. 20428, (202) 673-6044.

The section numbers in the proposed new section were incorrectly stated. The sentence in column 3, 44 FR 67142, should read:

**Proposed Rule**

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 241, *Uniform System of Accounts and*

*Reports for Certificated Air Carriers*, as follows:

"In Section 19, Operating Statistics Classifications new Section 19.7 would be added, to read:"

Phyllis T. Kaylor,  
*Secretary.*

[FR Doc. 79-37294 Filed 12-4-79; 8:45 am]

BILLING CODE 6320-01-M

**DEPARTMENT OF COMMERCE****Industry and Trade Administration****15 CFR Part 377****Short Supply Controls; Procedures for Petitions for Monitoring or Export Controls**

**AGENCY:** Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

**ACTION:** Advance Notice of Rulemaking and Request for Comments.

**SUMMARY:** On October 1, 1979, the Export Administration Act of 1969, as amended, was superseded by a new law, the Export Administration Act of 1979. This notice requests public comment concerning the implementation of section 7(c) of the new Act which provides that any entity, representing an industry which processes metallic materials capable of being recycled, may transmit a written petition to the Secretary requesting the monitoring of exports, or the imposition of export controls, or both. It also provides for public hearings on such petitions and requires determinations to be made under a prescribed timetable.

**DATES:** Comments by December 17, 1979.

**ADDRESS:** Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

**FOR FURTHER INFORMATION CONTACT:** Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044 (202) 377-3984.

**SUPPLEMENTARY INFORMATION:** On October 1, 1979 the Export Administration Act of 1969, as amended was superseded by a new law, the Export Administration Act of 1979 (Pub. L. 96-72; to be codified at 50 U.S.C. App 2401 *et seq.*) (the "Act"). Section 7(c) of the new Act establishes a procedure whereby any entity, including a trade association, firm, or certified or recognized union or group of workers, which processes metallic materials

capable of being recycled, may transmit a written petition to the Secretary requesting the monitoring of exports, or the imposition of export controls, or both. It further provides for public hearings to be held on such petitions and requires decisions to be made by the Department under a prescribed time schedule. Specifically, section 7 of the Act, in pertinent part, provides the following:

**Short Supply Controls**

Sec. 7. (a) Authority.—(1) In order to carry out the policy set forth in section 3(2)(C) of this Act, the President may prohibit or curtail the export of any goods subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President shall allocate a portion of export licenses on the basis of factors other than a prior history of exportation. Such factors shall include the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy set forth in section 3(2)(C) of this Act, the Secretary shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within 15 days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.

(3) In imposing export controls under this section, the President's authority shall include, but not be limited to, the imposition of export license fees.

(b) Monitoring.—(1) In order to carry out the policy set forth in section 3(2)(C) of this Act, the Secretary shall monitor exports, and contracts for exports, of any good (other than a commodity with is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to be increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Any such monitoring shall commence at a time adequate to assure that the monitoring will result in a data base sufficient to enable policies to be developed, in accordance with section 3(2)(C) of this Act, to mitigate a short supply situation or serious inflationary price rise or, if export controls are needed, to permit imposition of such controls in a timely manner. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by

country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(3) The Secretary shall consult with the Secretary of Energy to determine whether monitoring or export controls under this section are warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including, but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

\* \* \* \* \*

**(c) Petitions for Monitoring or Controls.—**

(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of any industry or a substantial segment of an industry which processes metallic materials capable of being recycled with respect to which an increase in domestic prices or a domestic shortage, either of which results from increased exports, has or may have a significant adverse effect on the national economy or any sector thereof, may transmit a written petition to the Secretary requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such material, in order to carry out the policy set forth in section 3(2)(C) of this Act.

(B) Each petition shall be in such form as the Secretary shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating (i) that there has been a significant increase in relation to a specific period of time, in exports of such material in relation to domestic supply, and (ii) that there has been a significant increase in the price of such material or a domestic shortage of such material under circumstances indicating the price increase or domestic shortage may be related to exports.

(2) Within 15 days after receipt of any petition described in paragraph (1), the Secretary shall publish a notice in the Federal Register. The notice shall (A) include the name of the material which is the subject of the petition, (B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and (D) provide that interested persons shall have a period of 30 days commencing with the date of publication of such notice to the Secretary written data, views, or arguments, with or without opportunity for oral presentation, with respect to the matter involved. At the request of the petitioner or any other entity described in paragraph (1)(A) with respect to

the material which is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Secretary shall conduct public hearings with respect to the subject of the petition, in which case the 30-day period may be extended to 45 days.

(3) Within 45 days after the end of the 30- or 45-day period described in paragraph (2), as the case may be, the Secretary shall—

(A) determine whether to impose monitoring or controls, or both, on the export of such material, in order to carry out the policy set forth in section 3(2)(C) of this Act; and

(B) publish in the Federal Register a detailed statement of the reasons for such determination.

(4) Within 15 days after making a determination under paragraph (3) to impose monitoring or controls on the export of a material, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days following the publication of such proposed regulations, and after considering any public comments thereon, the Secretary shall publish and implement final regulations with respect to such monitoring or controls.

(5) For purposes of publishing notices in the Federal Register and scheduling public hearings pursuant to this subsection, the Secretary may consolidate petitions, and responses thereto, which involve the same or related materials.

(6) If a petition with respect to a particular material or group of materials has been considered in accordance with all the procedures prescribed in this subsection, the Secretary may determine, in the absence of significantly changed circumstances, that any other petition with respect to the same material or group of materials which is filed within 6 months after consideration of the prior petition has been completed does not merit complete consideration under this subsection.

(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Secretary with respect to the same subject as that of the petition.

(8) The Secretary may impose monitoring or controls on a temporary basis after a petition is filed under paragraph (1)(A) but before the Secretary makes a determination under paragraph (3) if the Secretary considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of this Act.

(9) The authority under this subsection shall not be construed to affect the authority of the Secretary under any other provision of this Act.

(10) Nothing contained in this subsection shall be construed to preclude submission on a confidential basis to the Secretary of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, or to preclude consideration of such information by the Secretary in reaching decisions required under this subsection. The provisions of this paragraph shall not be construed to affect the applicability of section 552(b) of title 5, United States Code.

\* \* \* \* \*

Section 19(b)(2) of the Act requires that regulations implementing the provisions of section 7(c) take effect not later than January 1, 1980.

Since the Secretary of Commerce has the responsibility for issuing regulations to implement the provisions of section 7(c), this notice outlines the procedures the Department intends to follow in developing and promulgating these regulations.

It has been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instruction 1-6 (44 FR 2093 *et seq.*, January 9, 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations."

Furthermore, section 13(a) of the Act exempts regulations promulgated thereunder from the public participation in rulemaking procedures of the Administrative Procedures Act. Section 13(b), which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form is not applicable because there regulations do not impose controls on exports. However, because of the importance and complexity of the issues involved in these regulations, the Department is inviting public participation in their development.

All persons who desire to comment on the regulations to be promulgated are encouraged to do so at the earliest possible time so as to permit the fullest consideration of their views. Comments should be received by C.O.B. December 17, 1979. Comments may take the form of proposed regulatory language, narrative discussion, hypothetical case situations, or any other appropriate format.

Among other subjects, the following would be appropriate for comment:

- (1) Commodities which should be included in the petitioning procedure;
- (2) What kinds of activities constitute a processing industry;
- (3) What is a representative group of an industry or a substantial segment thereof;
- (4) What information should be required to be included in a petition;
- (5) What should be the format of public hearings;
- (6) Who may request hearings;
- (7) Under what circumstances would it be advisable to hold regional hearings;
- (8) What should be the criteria for consolidating proceedings; and

(9) What provisions should be established for the withdrawal of petitions.

Because the regulations implementing section 7(c) of the Act must be issued and take effect no later than January 1, 1980, they will not be published in proposed form. The Department expects to publish the regulations in interim form soon after the close of the comment period. At that time, a further opportunity will be provided interested persons to comment on the interim regulations and such comments will be considered by the Department of Commerce in adopting the regulations in final form. All comments received by C.O.B. December 17, 1979 will be considered in developing the interim regulations.

Written public comments which are accompanied by a request that part or all of the material be treated confidentially, because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials, together with comments and materials received after C.O.B., December 17, 1979, will be returned to the submitter and will not be considered in the development of the regulations.

All public comments to be considered in the development of these regulations will be a matter of public record and will be available for public inspection and copying. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments.

Written comments (in triplicate) concerning the regulations should be addressed to:

Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

The public record concerning these regulations will be maintained in the Industry and Trade Administration, Freedom of Information Records Inspection Facility, Room 3012 Main Building, U.S. Department of Commerce, 14th & Constitution Avenue NW., Washington, D.C. 20230. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information regarding the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the Industry and Trade Administration Freedom of Information Officer, at the above address or by calling 202/377-3031.

(Secs. 7, 15 and 21, Pub. L. 96-72, to be codified at 50 U.S.C. App. 2401 *et seq.*; E.O.

12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: November 30, 1979.

Robin E. Schwartzman,  
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 79-37351 Filed 12-4-79; 8:45 am]

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## National Oceanic and Atmospheric Administration

### 15 CFR Part 935

#### Channel Islands Marine Sanctuary

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA); Department of Commerce.

**ACTION:** Proposed rule.

**SUMMARY:** The National Oceanic and Atmospheric Administration proposes the designation by the Secretary of Commerce of the Channel Islands Marine Sanctuary off the coast of California. Presidential approval of the designation is required. After designation, the Secretary of Commerce must promulgate necessary and reasonable regulations to control activity within the sanctuary. These proposed regulations define permissible activities within the Channel Islands Marine Sanctuary off the coast of California, the procedures by which persons may obtain permits for prohibited activities, and the penalties for committing prohibited acts without a permit.

**DATE:** Comments due on or before February 4, 1980.

**ADDRESS:** Send Comments to: Director, Sanctuary Programs Office; Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

**FOR FURTHER INFORMATION CONTACT:** JoAnn Chandler, Acting Director, Sanctuary Programs Office; Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235. 202-634-4236.

**SUPPLEMENTARY INFORMATION:** Title III of the Marine Protection, Research, and Sanctuaries Act of 1972; 16 U.S.C. 1431-1434 (the Act) authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as far seaward as the outer edge of the Continental Shelf as marine sanctuaries to preserve or restore distinctive conservation, recreational, ecological, or aesthetic values. Section 302(f) of the

Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. The authority of the Secretary to administer the provisions of the Act has been delegated to the Assistant Administrator for Coastal Zone Management within the National Oceanic and Atmospheric Administration, U.S. Department of Commerce (the Assistant Administrator).

The Assistant Administrator proposes to designate as a marine sanctuary an area of the waters off the Coast of California, adjacent to the Northern Channel Islands, and Santa Barbara Island seaward to a distance of 6 nautical miles (nmi). The waters around these Islands, located in an area of upwelling and in a transition zone between the cold waters of the California Current and the warmer Southern California Counter Current, support an exceptionally rich and diverse biota, including one of the world's most diverse concentrations of marine mammals, several endangered species, and numerous seabirds. The area also sustains a variety of human uses.

In 1977 NOAA received several recommendations for sanctuaries of varying dimensions to be established in the general area. NOAA held a public meeting in April 1978 to discuss these recommendations and in June 1978 the County of Santa Barbara submitted a nomination.

The Office of Coastal Zone Management (OCZM) prepared and published an Issue Paper in December 1978 outlining alternatives for public review. Based on the responses to this Paper and consultation with other Federal agencies, the Pacific Regional Fisheries Management Council, State and local governments, and interest groups, NOAA prepared a draft environmental impact statement (DEIS) which is being published concurrently with these regulations. (A copy may be obtained by writing to the contact identified above).

The rationale for designation of this area as a marine sanctuary and for the proposed regulatory system as well as alternative approaches, both regulatory and non-regulatory, are more fully set forth in the DEIS. OCZM will receive public comments on the proposal, hold public hearings in Santa Barbara and Ventura, California, and prepare a final EIS and regulations which incorporate and respond to the comments received. Only after final consultation with Federal agencies, and after Presidential approval, can the Secretary of



Commerce designate the sanctuary and promulgate the regulations.

NOAA policy and its general Marine Sanctuary regulations (15 CFR Part 922, 44 FR 44831, July 31, 1979) provide that the regulatory system for a marine sanctuary will be established by two documents, a Designation document and the regulations issued pursuant to Section 302(f) of the Act. The Designation will serve as a constitution for the sanctuary, establishing among other things the purposes of the sanctuary, the types of activities that may be subject to regulation within it and the extent to which other regulatory programs will continue to be effective.

As proposed, the Channel Island Marine Sanctuary Designation document would provide as follows:

#### Draft Designation Document

#### Designation Of The Channel Island Marine Sanctuary

##### Preamble

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972, P.L. 92-532, (the Act) the waters surrounding the Northern Channel Islands and Santa Barbara Island are hereby designated a Marine Sanctuary for the purposes of preserving and protecting this unique and fragile ecological community.

##### Article 1. Effect of Designation

Within the area designated as The Channel Islands Marine Sanctuary (the Sanctuary), described in Article 2, the Act authorizes the promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary. Article 4 of the Designation lists those activities which may require regulation but the listing of any activity does not by itself prohibit or restrict it. Restrictions or prohibitions may be accomplished only through regulation, and additional activities may be regulated only by amending Article 4.

##### Article 2. Description of the Area

The Sanctuary consists of an area of the waters off the coast of California, adjacent to the northern Channel Islands and Santa Barbara Island seaward to a distance of 6 nautical miles (nmi). The precise boundaries are defined by regulation.

##### Article 3. Characteristics of the Area That Give It Particular Value

The Sanctuary is located in an area of upwelling and in a transition zone between the cold waters of the California Current and the warmer Southern California Countercurrent. Consequently, the Sanctuary contains an exceptionally rich and diverse biota, including 30 species of marine mammals and several endangered species of marine mammals and sea birds. The Sanctuary will provide recreational experiences and scientific research opportunities and generally will have special value as an ecological, recreational, and esthetic resource.

#### Article 4. Scope of Regulation

Section 1. *Activities Subject to Regulation.* In order to protect the distinctive values of the Sanctuary, the following activities may be regulated within the Sanctuary to the extent necessary to ensure the protection and preservation of its marine feature and the ecological, recreational, and esthetic value of the area:

- a. Oil and gas operations.
- b. Discharging or depositing any substance or object.
- c. Dredging or alteration of, or construction on, the seabed.
- d. Navigation and operation of vessels (other than fishing vessels) and overflights below 1,000 feet.
- e. Removing or otherwise deliberately harming cultural or historical artifacts.

Section 2. *Consistency with international law.* The regulations governing the activities listed in Section 4 of this Article will apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law including treaties and international agreements to which the United States is signatory.

Section 3. *Emergency regulations.* Where essential to prevent immediate, serious and irreversible damage to the ecosystem of the area, activities other than those listed in Section 1 may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this Article would be proposed in accordance with the procedures specified in Article 6.

##### Article 5. Relation to Other Regulatory Programs

Section 1. *Fishing.* The regulation of fishing is not authorized under Article 4. However, fishing vessels may be regulated with respect to discharges in accordance with Article 4, paragraph (b). All regulatory programs pertaining to fishing, including particularly regulations promulgated under the California Fish and Game Code and Fishery Management Plans promulgated under the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 *et seq.* shall remain in effect. All permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless inconsistent with any regulation implementing Article 4.

Section 2. *Defense activities.* The regulation of those activities listed in Article 4 shall not prohibit any activity conducted by the Department of Defense that is essential for National defense or because of emergency. Such activities shall be conducted consistently with such regulation to the maximum extent practicable. All other activities of the Department of Defense are subject to Article 4.

Section 3. *Other programs.* All applicable regulatory programs shall remain in effect and all permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless inconsistent with any regulation implementing Article 4. The Sanctuary regulations shall set forth any necessary certification procedures.

#### Article 6. Alterations to this Designation

This Designation can be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and State agencies and the Pacific Regional Fishery Management Council, and approval by the President of the United States. [End of Draft Document]

Only those activities listed in Article 4 are subject to regulation in the Sanctuary. Before any additional activities may be regulated, the Designation must be amended through the entire designation procedure including public hearing and approval by the President.

The primary purpose of the proposed regulations is to protect and to preserve the marine birds and mammals and their habitat and other natural resources of the waters surrounding the northern Channel Islands and Santa Barbara Island. This area supports a wide array of species partially because it is located in a transition zone between northern and southern waters and in an area of upwelling, and partially because it is one of very few areas on the Southern California coast that has remained relatively unaltered by human use. However, use of the Santa Barbara Channel is increasing and additional pressure is being placed on the resources from a number of human activities. Accordingly, those activities which pose a significant threat to the special marine features of these waters are prohibited. Such activities include: discharges except for marine sanitation effluents, vessel cooling waters, fish cleaning wastes and chumming materials, and discharges incidental to allowed hydrocarbon operations (§ 935.7(a)(1)); construction on or alteration of the seabed except for navigation aids or in connection with those hydrocarbon operations which are allowed under § 935.6 (§ 935.7(a)(2)); the unnecessary operation of vessels or aircraft in the vicinity of important habitats within 1 nmi of the islands and at lower than 1,000 ft. in the case of aircraft (§ 935.7(a)(3)); and removing or harming of historical or cultural artifacts (§ 935.7(a)(4)). All prohibitions must be applied consistently with recognized principles of international law.

Hydrocarbon operations under existing leases may continue subject to conditions imposed by other authorities, particularly the U.S. Geological Survey in its operating orders, and the Environmental Protection Agency (EPA) through permits issued under section 402 of the Federal Water Pollution Control Act, 33 U.S.C. 1431, (known as NPDES permits). In addition, operators must

maintain adequate oil spill contingency equipment on site. (§ 935.6(a)).

To reduce the possibility of damage to the resources by pollution, hydrocarbon exploration and exploitation under leases issued after the effective date of these regulations will be prohibited. (§ 935.6(c)).

The regulation of fishing in the waters proposed for the Sanctuary will remain the responsibility of the California Department of Fish and Game, the Pacific Regional Fishery Management Council, and the National Marine Fishery Service pursuant to the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 *et seq.* (See Article 5, Section 1 of the Designation.) No additional regulation of fishing has been proposed by OCZM. However, fishing vessels are subject to the same discharge regulations as other vessels. (§ 935.7(a)(1)).

#### Public Review and Comment

NOAA invites public review and comment on these proposed regulations. Written comments should be submitted to: JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20234, on or before February 4, 1980.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems

November 28, 1979.

Accordingly, Part 935 is proposed as follows:

### PART 935—THE CHANNEL ISLANDS MARINE SANCTUARY REGULATIONS.

Sec.

935.1 Authority.

935.2 Purpose.

935.3 Boundaries.

935.4 Definitions.

935.5 Allowed activities.

935.6 Hydrocarbon operations.

935.7 Prohibited activities.

935.8 Penalties for commission of prohibited acts.

935.9 Permit procedures and criteria.

935.10 Certification of other permits.

935.11 Appeals of administrative action.

Authority.—16 U.S.C. 1431-1434.

#### § 935.1 Authority.

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of section 302(a) of title III of the Marine Protection, Research and Sanctuaries Act of 1972; 16 U.S.C. 1431-1434 (the Act). The following regulations are issued pursuant to the authorities of sections 302(f), 302(g) and 303 of the Act.

#### § 935.2 Purpose.

The purpose of designating the Sanctuary is to protect and preserve the extraordinary ecosystem including marine birds and mammals and other natural resources of the waters surrounding the northern Channel Islands and Santa Barbara Island and ensure the continued availability of the area as a research and recreational resource. This area supports a particularly rich and diverse marine biota, partially because it is located in a transition zone between northern and southern waters and partially because it is one of very few areas off the Southern California coast that has been relatively unaltered by human use.

#### § 935.3 Boundaries.

The Sanctuary consists of an area of the waters off the coast of California adjacent to the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock, extending seaward to a distance of 6 nautical miles (nmi). The coordinates are shown in the Appendices A, B, and C.

#### § 935.4 Definitions.

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(b) "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

(c) "Person" means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, or any state or local unit of government.

#### § 935.5 Allowed activities.

All activities except those specifically prohibited by section 935.7 may be carried on in the Sanctuary subject to all prohibitions, restrictions and conditions imposed by any other authority.

#### § 935.6 Hydrocarbon operations.

(a) Hydrocarbon exploration and exploitation pursuant to any lease, executed prior to the effective date of these regulations and the laying of any pipeline is allowed subject to paragraph 935.6(b); and all prohibitions, restrictions and conditions imposed by applicable regulations; permits, licenses or other authorizations including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers, and the Environmental Protection Agency.

(b) No person may engage in any hydrocarbon operation unless the following oil spill contingency equipment is available at the site of such operation: (1) 1,500 feet of open ocean containment boom on a boat capable of deploying the boom; (2) one oil skimming device capable of open ocean use; and (3) fifteen bales of oil sorbent material.

(c) Hydrocarbon exploration and exploitation activities pursuant to leases executed on or after the effective date of these regulations are prohibited.

#### § 935.7 Prohibited activities

(a) Except as may be necessary for the National defense, in accordance with Article 5, section 2 of the Designation, or as may be necessary to respond to an emergency threatening life, property, or the environment, the following activities are prohibited within the Sanctuary unless permitted by the Assistant Administrator in accordance with §§ 935.9 or 935.10.

(1) *Discharge of polluting substances.* No person shall deposit or discharge any materials or substances of any kind except: (i) Indigenous fish or parts and chumming materials; (ii) Effluents from marine sanitation devices; (iii) Non-polluted cooling waters from vessels; or (iv) Effluents incidental to hydrocarbon exploration and exploitation activities as allowed by § 935.6.

(2) *Alteration of, or construction on, the seabed.* Except in connection with hydrocarbon exploration or exploitation activities allowed by § 935.6, within 2 nautical miles of any island, no person shall: (i) construct any structure other than a navigation aid, or (ii) Drill through the seabed, or (iii) Dredge or otherwise alter the seabed in any way.

(3) *Unnecessary operations of vessels and aircraft.* Except to transport persons or supplies to or from an island, or for enforcement purposes, no person shall, within 1 nautical mile of any island: (i) Fly any aircraft at less than 1000 feet; or (ii) Operate any vessel unless engaging in activities directly associated with the resources of the area including, but not limited to commercial or recreational fishing (in accordance with Article 5, section 1 of the Designation), research, sightseeing, and diving or other recreational activities, and the primary purpose of such vessel is to engage in such activities.

(4) *Removing or damaging distinctive historical or cultural artifacts.* No person shall remove or damage any historical or cultural feature.

(b) All activities currently carried out by the Department of Defense within the Sanctuary are essential for the National defense and, therefore, not subject to



these prohibitions. The exemption of additional activities having significant impacts shall be determined in consultation between NOAA and the Department of Defense.

(c) The prohibitions in this section are not based on any claim of territoriality and will be applied to foreign persons and vessels only in accordance with recognized principles of international law, including treaties, conventions and other international agreements to which the United States is signatory.

**§ 935.8. Penalties for commission of prohibited acts.**

(a) Section 303 of the Act authorizes the assessment of a civil penalty of not more than \$50,000 against any person subject to the jurisdiction of the United States for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding in rem against any vessel used in violation of any such regulation. Procedures are set out in Subpart D of Part 922 (15 CFR Part 922) of this chapter. Subpart D is applicable to any instance of a violation of these regulations.

**§ 935.9 Permit procedures and criteria.**

(a) Any person in possession of a valid permit issued by the Assistant Administrator in accordance with this section may conduct any activity in the Sanctuary including any activity specifically prohibited under § 935.7 if such activity is either (1) research related to the resources of the Sanctuary, (2) to further the educational value of the Sanctuary, or (3) for salvage or recovery operations.

(b) Permit applications shall be addressed to the Assistant Administrator for Coastal Zone Management, Attn: Office of Sanctuary Programs, Division of Operations and Enforcement, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235. An application shall provide sufficient information to enable the Assistant Administrator to make the determination called for in paragraph (c) of the section and shall include a description of all activities proposed, the equipment, methods, and personnel (particularly describing relevant experience) involved, and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached.

(c) In considering whether to grant a permit the Assistant Administrator shall evaluate such matters as (1) the general professional and financial responsibility of the applicant; (2) the appropriateness of the methods envisioned to the purpose(s) of the activity; (3) the extent

to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information; (4) the end value of the activity and (5) such other matters as may be deemed appropriate.

(d) In considering any application submitted pursuant to this Section, the Assistant Administrator may seek and consider the views of any person or entity, within or outside of the Federal Government, and may hold a public hearing, as deemed appropriate.

(e) The Assistant Administrator may, in his or her discretion, grant a permit which has been applied for pursuant to this Section, in whole or in part, and subject to such condition(s) as deemed appropriate. The Assistant Administrator or a designated representative may observe any permitted activity and/or require the submission of one or more reports of the status or progress of such activity. Any information obtained shall be available to the public.

(f) The permit granted under paragraph (e) may not be transferred.

(g) The Assistant Administrator may amend, suspend or revoke a permit granted pursuant to this Section, in whole or in part, temporarily or indefinitely, if the permit holder (the Holder) has acted in violation of the terms of the permit or of the applicable regulations. Any such action shall be set forth in writing to the Holder, and shall set forth the reason(s) for the action taken. The Holder may appeal the action as provided for § 935.11.

**§ 935.10. Certification of other permits.**

All permits, licenses and other authorizations issued pursuant to any other authority are hereby certified and shall remain valid if they do not authorize any activity prohibited by §§ 935.6 or 935.7. Any interested person may request that the Assistant Administrator offer an opinion on whether an activity is prohibited by these regulations.

**§ 935.11. Appeals of administrative action.**

(a) Any interested person (the Appellant) may appeal the granting, denial, or conditioning of any permit under § 935.9 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal shall be in writing, shall state the action(s) appealed and the reason(s) therefor, and shall be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this Section, the Administrator will notify the permit applicant, if other than the Appellant, and will request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Administrator will decide the appeal in accordance with the criteria set out in § 935.9(c) as appropriate, based upon information relative to the application on file at OCZM and any additional information, the summary record kept of any hearing and the Hearing Officer's recommended decision, if any, as provided in paragraph (c) and such other considerations as deemed appropriate. The Administrator will notify all interested persons of the decision, and the reason(s) therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(c) If a hearing is requested or if the Administrator determines that one is appropriate, the Administrator may grant an informal hearing before a Hearing Officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing in the Federal Register. Such hearing shall normally be held no later than 30 days following publication of the notice in the Federal Register unless the Hearing Officer extends the time for reasons deemed equitable. The Appellant, the Applicant (if different) and, at the discretion of the Hearing Officer, other interested persons, may appear personally or by counsel at the hearing and submit such material and present such arguments as determined appropriate by the Hearing Officer. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend in writing a decision to the Administrator.

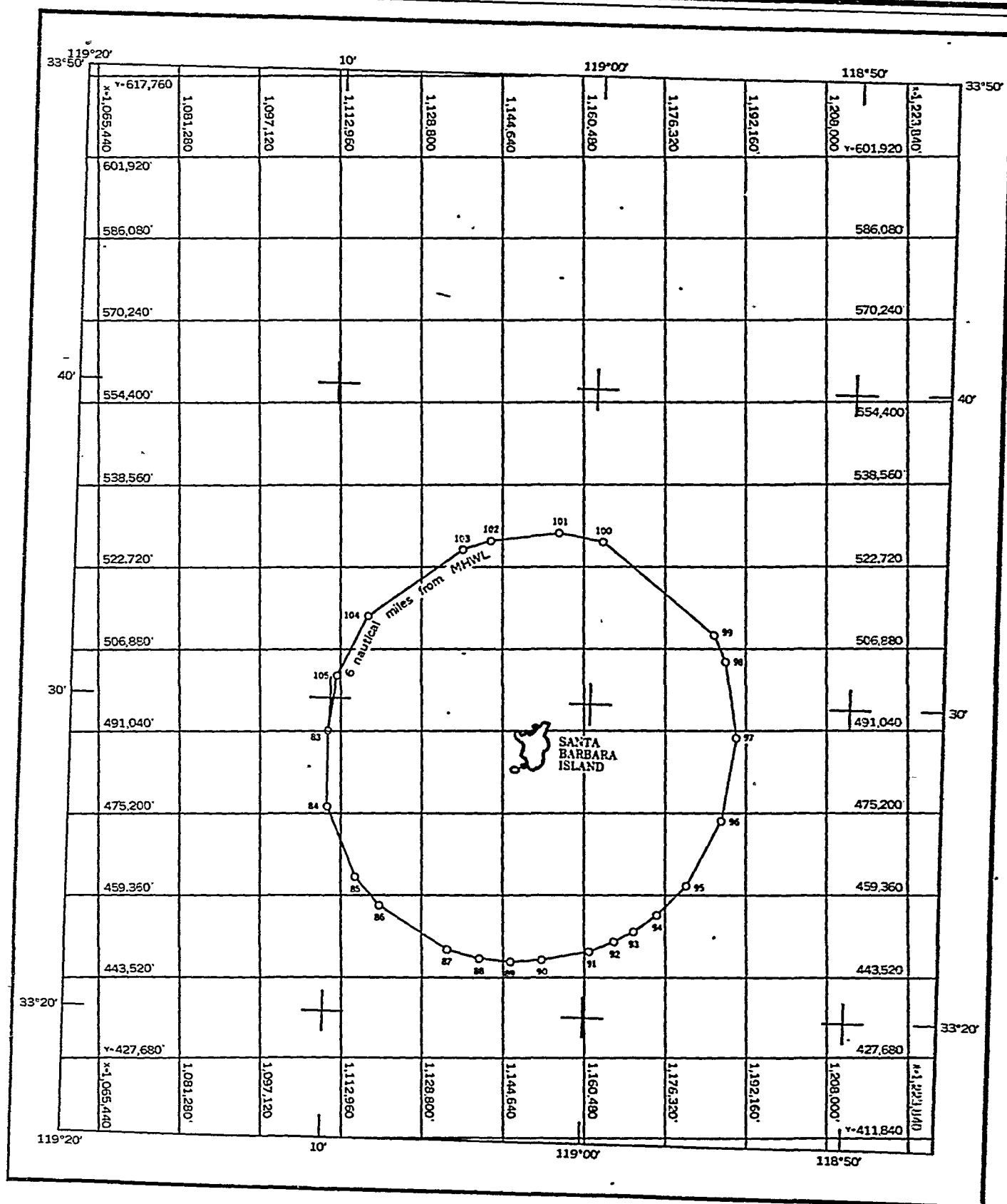
(d) The Administrator may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator will notify interested persons of the decision, and the reason(s) therefor in writing within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's action shall constitute final action for the Agency for the purposes of the Administrative Procedures Act.

(e) Any time limit prescribed in this Section may be extended for a period not to exceed 30 days by the Administrator for good cause, either upon his or her own motion or upon written request from the Appellant or Applicant stating the reason(s) therefor.

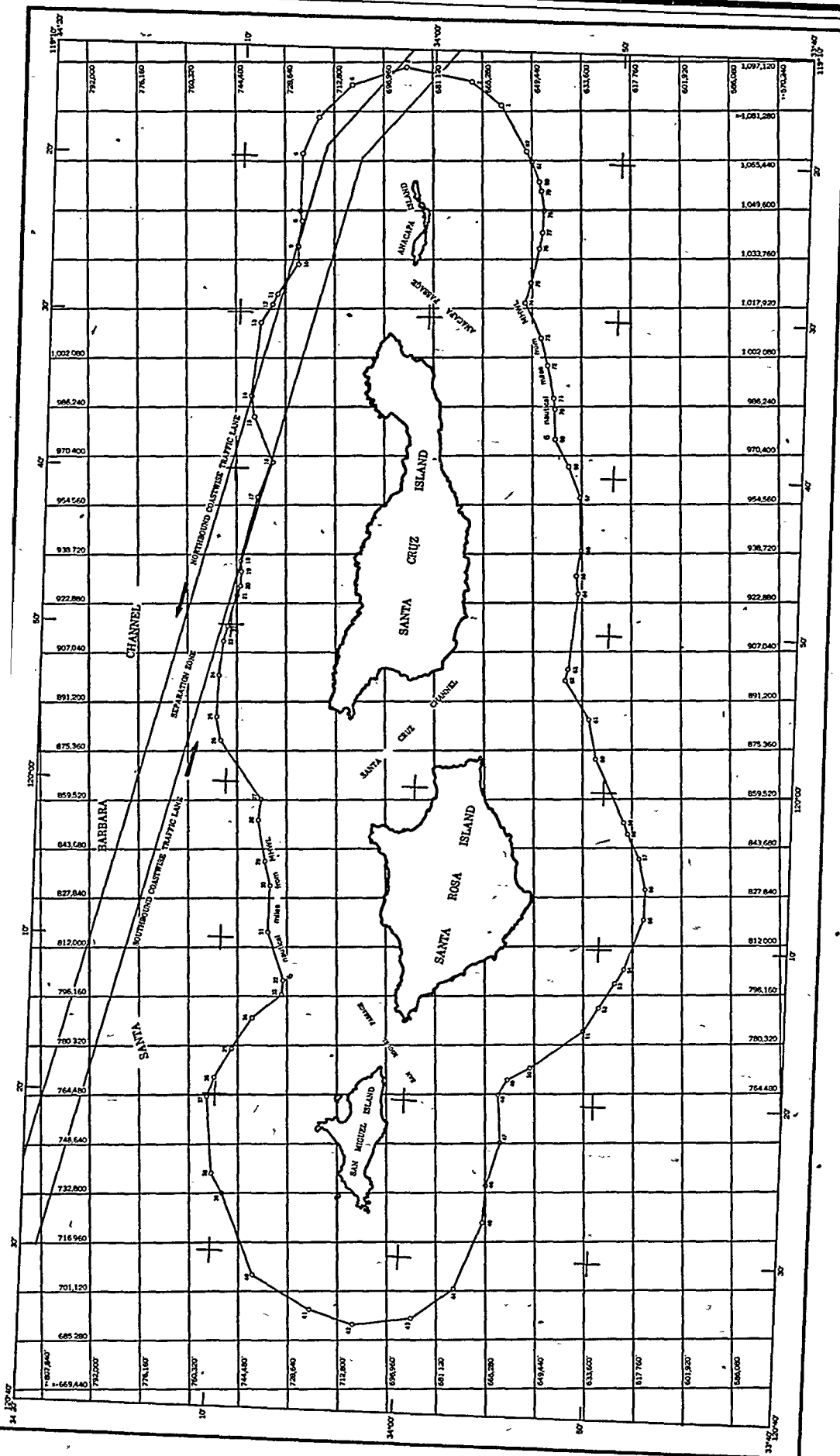
Attachments: Appendixes A, B, and C

## Appendix A: Coordinates of the Channel Islands Marine Sanctuary

		LATITUDE	LONGITUDE		LATITUDE	LONGITUDE
		0 / / /	0 / / /			
01	335628.959	1191623.800	51	335039.990	1201513.874	
02	3358 3.919	1191456.964	52	334953.260	1201341.904	
03	34 133.846	11914 7.740	53	3349 3.437	12012 6.750	
04	34 424.203	1191521.308	54	334836.087	1201110.821	
05	34 6 6.653	1191727.002	55	334739.280	120 759.707	
06	34 654.809	1191946.046	56	334737.617	120 6 4.002	
07	34 657.988	1192324.905	57	334759.351	120 4 8.370	
08	34 651.627	11924 4.198	58	334838.700	120 233.188	
09	34 7 1.640	1192540.819	59	334852.167	120 150.244	
10	34 659.904	1192650.959	60	335028.486	1195750.820	
11	34 8 2.002	1192847.501	61	335055.128	1195519.934	
12	34 817.693	1192927.698	62	335213.338	1195253.439	
13	34 852.234	1193039.562	63	3352 4.900	1195210.719	
14	34 916.780	1193522.667	64	335139.919	1194721.152	
15	34 9 5.106	1193641.694	65	335148.592	1194613.213	
16	34 8 2.782	1193933.421	66	335135.798	1194434.589	
17	34 846.870	1194148.621	67	335144.374	1194112.738	
18	34 935.563	1194557.284	68	335223.857	1193914.708	
19	34 932.627	1194637.335	69	3353 9.365	1193730.784	
20	34 933.396	1194732.285	70	335312.754	1193535.793	
21	34 943.668	11948 9.018	71	335317.114	1193454.567	
22	341010.616	11950 7.659	72	335338.865	1193251.578	
23	341021.586	11951 5.146	73	3354 2.277	11931 6.274	
24	341033.161	1195317.044	74	335456.444	1192854.052	
25	341036.545	1195557.373	75	335439.349	1192737.512	
26	341021.283	1195726.403	76	335415.236	1192523.779	
27	34 8 7.255	120 1 7.233	77	3354 7.847	1192422.849	
28	34 813.144	120 227.930	78	3354 4.682	1192258.006	
29	34 747.772	120 5 5.449	79	335414.311	1192144.573	
30	34 729.314	120 636.262	80	335422.824	11921 9.003	
31	34 730.691	120 935.238	81	335446.904	1191954.677	
32	34 636.285	1201239.335	82	3355 5.834	1191916.027	
33	34 640.634	1201333.940	83	332856.904	11910 4.092	
34	34 810.759	12015 7.017	84	332632.364	11910 1.328	
35	34 912.290	12017 7.046	85	332419.904	119 852.236	
36	3410 5.117	1201859.630	86	332326.019	119 754.826	
37	341025.736	1202014.203	87	3322 4.836	119 516.716	
38	3410 3.509	12025 7.344	88	332149.387	119 4 1.551	
39	34 927.475	1202621.842	89	332144.594	119 249.887	
40	34 741.330	1203130.040	90	332149.556	119 137.839	
41	34 436.784	1203334.917	91	3322 7.538	1185949.357	
42	34 216.398	1203426.665	92	332227.774	1185851.623	
43	335913.122	1203353.385	93	332247.957	11858 7.633	
44	3357 1.427	1203154.590	94	332320.805	1185714.375	
45	335536.973	1202737.188	95	332418.458	11856 8.450	
46	335530.037	1202514.587	96	332624.130	1185451.352	
47	335450.522	1202229.536	97	3329 2.820	1185422.276	
48	3355 1.640	1201926.722	98	333127.917	1185450.367	
49	335434.409	1201827.344	99	333217.935	1185518.396	
50	335323.129	1201739.927	100	333510.090	1185940.0910	
			101	333524.575	119 122.1081	
			102	3335 6.497	119 359.4632	
			103	333448.322	119 5 3.3743	



PREFERRED MARINE  
SANCTUARY BOUNDARY  
DIGITIZED POINTS—O



[FR Doc. 79-37378 Filed 12-4-79; 8:45 am]  
BILLING CODE 3510-22-C

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Office of the Secretary

[Docket No. R-79-747]

### 24 CFR Part 390

#### Securities Marketing and Trading Activities of Issuers; Notice of Transmittal of Proposed Rule to Congress

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Notice of Transmittal of proposed rule to Congress under section 7(o) of the Department of HUD Act.

**SUMMARY:** Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

**FOR FURTHER INFORMATION CONTACT:** Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW, Washington, D.C. 20410 (202) 755-6207.

#### SUPPLEMENTARY INFORMATION:

Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following proposed rulemaking document:

24 CFR Part 390—Guaranty of Mortgage-Backed Securities—Rules Relating to Securities Marketing and Trading Activities of Issuers

This proposed rule would impose two new requirements on issuers of mortgage-backed securities guaranteed by the Government National Mortgage Association ("GNMA"). First, issuers would be permitted to enter into agreements to purchase or sell securities only when the transaction is "suitable", taking into account the issuer's financial capacity and contractual obligations. Second, in certain "forward market" transactions (which provide for delayed delivery of securities), issuers would be required to make "mark to market" deposits of collateral with an independent financial institution, to cover unrealized losses incurred prior to delivery. These proposed requirements are steps in an effort to prevent abuses

in the marketing and trading of securities by issuers and to assure that the ability of issuers to administer their outstanding securities will not be jeopardized by their marketing and trading activities.

(Sec. 7(o) of the Department of HUD Act, 42 U.S.C. 3535 (o), sec. 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 28, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-37320 Filed 12-4-79; 4:45 am]

BILLING CODE 4210-01-M

## LIBRARY OF CONGRESS

### 37 CFR Part 202

#### Copyright Office

[Docket Rm 79-6]

#### Registration of Claims to Copyright; Inquiry—Blank Form

**AGENCY:** Library of Congress, Copyright Office.

**ACTION:** Notice of inquiry.

**SUMMARY:** This notice of inquiry is issued to advise the public that the Copyright Office of the Library of Congress is reviewing its practices with respect to certain works which are often referred to as "blank forms." The existing regulations of the Copyright Office, 37 CFR 202.1(c), preclude registration for "blank forms" \* \* \* which are designed for recording information and which do not in themselves convey information." This notice is intended to elicit public comment, views, and information which will assist the Copyright Office in evaluating its present practices and possible changes in that portion of its regulations.

**DATES:** Initial comments should be received on or before January 15, 1980. Reply comments should be received on or before January 31 1980.

**ADDRESS:** Interested persons should submit five copies of their written comments to Office of the General Counsel, Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202.

**FOR FURTHER INFORMATION CONTACT:** Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, Telephone (703) 557-8731.

**SUPPLEMENTARY INFORMATION:** The existing Copyright Office regulations

include "blank forms" among those works identified as not being subject to copyright.

Blank forms, such as time cards, graph paper, account books, diaries, bank checks, scorecards, address books, report forms, order forms and the like, which are designed for recording information and do not in themselves convey information. (37 CFR 202.1(c))

It has been suggested that, while the criterion requiring the conveying of information as a condition of copyrightability is generally sound, the generic term "blank forms" and some of the more specific categories which follow it may not provide adequate guidance concerning whether a specific work is copyrightable.

The Copyright Office has noted recent instances in which the courts have held copyrightable works that some might consider to fall within the broad language of the existing regulation. While in most cases there has been no direct conflict with the regulation since the works were, in fact, registered by the Copyright Office, we have, where necessary, modified our practice. The most significant modification to date has been with respect to machine-scorable answer sheets for standardized tests. The practice now followed, in accord with the decision in *Harcourt, Brace & World, Inc. v. Graphic Controls Corp.*, 329 F. Supp. 517 (S.D.N.Y. 1971), is to register claims to copyright in such works whether or not they are submitted in conjunction with their tests and without requiring a certain quantum of textual material. (However, in many cases, claims in "answer sheet" materials should be registered only on the basis of statements of new matter, since the grids and other elements may have been published previously.)

Additional cases in which copyright protection has been approved have led the Office to consider the revision of 37 CFR 202.1(c). Among others, they include *Professional Systems & Supplies, Inc. v. Databank Supplies & Equipment Co., Inc.*, Copyright L. Rep. (CCH) ¶ 25,081 (W.D. Okla. 1979) (legal forms); *Edwin K. Williams & Co. v. Edwin K. Williams & Co.—East*, 542 F. 2d 1043 (9th Cir. 1976) (account books); *Frederick Chusid & Co. v. Marshall Leeman & Co.*, 326 F. Supp. 1041 (S.D.N.Y. 1971) (personal data forms); *Norton Printing Co. v. Augustana Hospital*, 155 U.S.P.Q. 133 (N.D. Ill. 1967) (medical laboratory test forms); *Manpower, Inc. v. Temporary Help of Harrisburg, Inc.*, 246 F. Supp. 788 (E.D. Pa. 1965) (vacation schedule forms); and *Cash Dividend Check Corp. v. Davis*,

247 F. 2d 458 (9th Cir. 1957) (bank checks).

The Copyright Office has for many years observed a "rule of doubt" under which claims are registered when there is reasonable doubt about whether a court would find a specific work a proper subject of copyright. To assist the Office in evaluating its treatment of blank forms, comments are specifically requested on the following questions:

(1) Should 37 CFR 202.1(c) be amended—

(a) By deleting the words "blank forms" and the subsequent list of examples so that it simply states the criterion of the conveyance of information; or

(b) By revising the list of examples so that it more accurately reflects the state of the case law; or

(c) In some other manner?

(2) What are the arguments for and against present Office practices in registering works where the quantum of traditional authorship is small particularly in view of the provision in 17 U.S.C. 410(c) that a certificate or registration generally constitutes prima facie evidence of the validity of the copyright?

Copies of all comments received will be available for public inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, in the Public Information Office, Room No. 101, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202.

If we decide to propose any change in the relevant regulations, we will publish a proposed text in the Federal Register and invite comments at a later time.

(17 U.S.C. 408, 702)

Dated: November 29, 1979.

Barbara Ringer,  
Register of Copyrights.

Approved:  
Daniel J. Boorstin,  
Librarian of Congress.

[Fr Doc. 79-37340 Filed 12-4-79; 8:45 am]  
BILLING CODE 1410-03-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Ch. I

[FRL 1370-7]

Indiana-Kentucky Power Co.; Record of Proceedings Under Section 126—Clean Air Act; Notice of Extension of Closing Date

AGENCY: Environmental Protection Agency.

**ACTION:** Notice of Extension of the Closing of the Record of Proceedings under Section 126 of the Clean Air Act.

**SUMMARY:** In a notice dated May 21, 1979, 44 FR 29495, EPA announced that a hearing would be held on June 20, 1979 in Louisville, Kentucky to initiate proceedings under section 126 of the Clean Air Act on the issue of whether the Indiana-Kentucky Power Company, Clifty Creek Power Plant emits sulfur dioxide in violation of section 110(a)(2)(E)(i) of the Clean Air Act. The hearing was held, at which time it was announced that final EPA modeling data was not yet available.

The panel decided to hold the record open until 30 days after the date when the final data and technical support documentation became available. On November 5, 1979, a notice appeared at 44 FR 63552, announcing the availability of final modeling data and technical support documents, and announcing the closing of the record as of December 5, 1979. Counsel for Indiana-Kentucky Electric Corporation has represented that it will require more time to prepare comments on the additional data. The enclosed notice announces the extension of the closing date until January 15, 1980.

**DATES:** Deadline for submission of written materials and closing of public hearing record is January 15, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Harrison, Hearing Panel Chairman, Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2016.

Dated November 30, 1979.  
John McGuire,  
Regional Administrator.  
[FR Doc. 79-37508 Filed 12-4-79; 8:45 am]  
BILLING CODE 6550-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 292

[Docket Nos. RM79-54 and RM79-55]

### Small Power Production and Cogeneration—Qualification and Rates and Exemptions; Public Comment

November 27, 1979.

AGENCY: Federal Energy Regulatory Commission.

**ACTION:** Notice Granting Extension of Time to Comment.

**SUMMARY:** On June 27, 1979, the Commission issued Docket No. RM79-54 [44 FR 38873, July 3, 1979], a proposed rulemaking under which small power production facilities and cogeneration facilities may be certified as qualifying facilities under section 201 of the Public Utilities Regulatory Policy Act of 1978 (PURPA). That rulemaking was noticed on October 19, 1979 [44 FR 61205, October 24, 1979] and comments to the notice were due by December 1, 1979. On October 18, 1979 the Commission issued, under Docket No. RM79-55, a notice of proposed rulemaking regarding the implementation of section 210 of PURPA relating to rates and exemptions of small power production and cogeneration facilities [44 FR 61190, October 24, 1979].

Comments on this proposal were also due by December 1, 1979. Upon consideration of requests for extension of time in which to file written comments, the date by which comments are to be filed under both Docket No. RM79-54 and Docket No. RM79-55 is extended to December 14, 1979.

**DATE:** Written comments by December 14, 1979.

**ADDRESS:** Written comments should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference either Docket No. RM79-54 or Docket No. RM79-55.

**FOR FURTHER INFORMATION CONTACT:** Mr. Adam Wenner, Executive Assistant to the Associate General Counsel, Federal Energy Regulatory Commission, Room 8104-C, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8171.

**SUPPLEMENTARY INFORMATION:** On November 10, 1979, the Edison Electric Institute filed a request for a 60-day extension of time to submit comments on the subject rulemakings, issued October 18 and 19, 1979. The motion states that additional time is needed for EEI's member companies to make a thorough analysis of the proposed rulemakings. On November 16, 1979, an extension of time until December 7, 1979, was granted in Docket No. RM 79-55.

Upon consideration, notice is hereby given that an extension of time is granted to and including December 14, 1979, for filing comments in both proceedings.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37559 Filed 12-4-79; 10:07 am]  
BILLING CODE 6450-01-M



# Notices

Federal Register

Vol. 44, No. 235

Wednesday, December 5, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### Forum on Improving the Regulatory Process

In accordance with its statutory mandate to arrange for the interchange of information potentially useful in improving administrative procedure, 5 U.S.C. 571-575, the Administrative Conference will be sponsoring a second session of its Forum on Improving the Regulatory Process. This session will be held on December 14, 1979 at 2:00 p.m. in the lower-level conference room of the Gelman Building, 2120 L Street, NW., Washington, D.C.

Invited to participate in the Forum will be officials from the Administration, bar, business community, labor, and citizen groups, as well as the Council of the Administrative Conference. Invited participants will discuss the implementation of Executive Order 12044 on Improving Government Regulations, and its relationship to regulatory reform proposals now pending before Congress.

The forum will be open to the public (space permitting), but participation is restricted to invited participants.

Persons wishing to attend or persons seeking further information should contact Jeffrey Lubbers, 254-7065.

Richard K. Berg,  
*Executive Secretary.*

November 29, 1979.

[FR Doc. 79-37306 Filed 12-4-79; 8:45 am]

BILLING CODE 6110-01-M

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### Soil and Water Resources Conservation Act of 1977 (RCA)

AGENCY: U.S. Department of Agriculture.

### ACTION: Postponement of Announced RCA Public Review Period.

**FOR FURTHER INFORMATION CONTACT:** Edward P. Cook, RCA Public Participation Team Leader, P. O. Box 2890, Washington, D.C. 20013, telephone (202) 447-5810.

**SUMMARY:** On Wednesday, August 22, 1977, a notice was published in the Federal Register (Vol. 44, No. 164) announcing the formal 60-day RCA public review period for RCA draft documents which was tentatively scheduled to begin on November 13, 1979. The need for additional analysis has caused us to postpone this date. Public review of RCA draft documents is now tentatively expected to begin in early 1980. A Federal Register notice will be published when the official public review period begins. That notice will give exact dates of the public review period plus dates and locations of related information meetings.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Soil and Water Resources Conservation Act (RCA), Pub. L. 95-192, the U.S. Department of Agriculture (USDA) is appraising the Nation's soil, water, and related resources, developing a national soil and water conservation program and preparing a statement of national policy concerning these resources during the 1979-80 process.

Draft Appraisal—Part I, the first of four RCA draft documents being prepared for public review and comment, contains the status, condition, and trend of the Nation's soil, water, and related resources. Draft Appraisal—Part I is available now for public review at the following field offices:

1. All Soil Conservation Service (SCS) offices; and
2. Agricultural Stabilization and Conservation Service (ASCS) county offices located separately from SCS offices.

Comments on any aspect of the RCA process, including the draft documents, may be sent at any time—up to the end of the official review period—to the RCA Response Analysis Center, U.S. Department of Agriculture, SCS, P. O. Box 888, Athens, Georgia 30603.

Dated: November 23, 1979.

(Public Law 95-192, 91 Stat. 1407, 16 U.S.C. 2001 et seq. (November 16, 1977))

David G. Unger,

*Deputy Assistant Secretary for Natural Resources and Environment.*

[FR Doc. 79-37325 Filed 12-4-79; 8:45 am]

BILLING CODE 3410-16-M

## Science and Education Administration

### Joint Council on Food and Agricultural Sciences Executive Committee; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences.

Date: December 10, 1979.

Time and Place: 8:30 a.m.-3:30 p.m., Room 338-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: Review the 1979 Annual Report for the Joint Council; assess report from Steering Committee on Technology Assessment; and hear updates from the Planning and Coordination Committees.

Contact Person: Dr. Fred E. Westbrook, Acting Executive Secretary, Joint Council on Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Room 331-A, Administration Building, Washington, D.C. 20250, telephone (202) 447-6651.

Done at Washington, D.C., this 28th day of November, 1979.

James Nielson,  
*Executive Director, Joint Council on Food and Agricultural Sciences.*

[FR Doc. 79-37377 Filed 12-4-79; 8:45 am]

BILLING CODE 3410-03-M

## CIVIL AERONAUTICS BOARD

[Docket No. 37165; Order 79-11-2031]

### Great Northern Airlines Service Mail Rates Investigation; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of November 1979.

By this order, we institute an investigation to determine the fair and

reasonable service mail rates to be paid Great Northern Airlines, Inc., (GNA) by the Postmaster General for the carriage of mail in its certificated services, and to establish temporary service mail rates for such transportation pending the conclusion of that investigation.

By Order 79-8-132, we granted a certificate of public convenience to GNA to carry passengers, property and mail over the Northwest Alaska mainline regional route.<sup>1</sup> This route, Anchorage-McGrath-Unalakleet-Nome-Kotzebue has been served by Wien Air Alaska (Wien) under a section 401 certificate and by GNA under intrastate authority. By Order 79-11-99 we denied petitions for reconsideration of Order 79-8-132. The new or renewed authority to carry passengers or property became effective on November 15, 1979. However, we made authority to carry mail over this route effective December 1, 1979, in order to give the United States Postal Service an opportunity to prepare for the change from a monopoly to a competitive system of mail service.

Mail is presently being transported over this route by Wien pursuant to rates established by Orders 71-2-102 and 76-2-63.<sup>2</sup> Since GNA will be providing the same mail service that Wien is presently providing over this route, we see no reason why these rates should not apply as temporary rates for GNA's certificated mail operations as well. In these circumstances and especially since Wien is being paid these rates as temporary rates, we can establish the rates fixed by Orders 71-2-102 and 76-2-63 as rates to be paid by the Postmaster General to GNA for the carriage of mail temporary on its entire certificated system effective on and after the commencement by GNA of the carriage of mail. These temporary rates shall be subject to retroactive adjustment in accordance with the level of final rates established by us in this docket.

The issuance of this order represents a departure from our usual temporary-rate procedures which contemplate an order to show cause, opportunity for objections, and (if necessary) expedited hearings prior to the final temporary-rate order. See Rule 310 of the Board's Rules of Practice, 14 CFR 302.310. The purpose of those procedures is to give opportunity for comment and hearings

on the temporary rates before they take effect. However, the Board has waived these procedures in circumstances in which they are not necessary.<sup>3</sup> We believe that this is such a case. The rates paid to Wien were finalized only after Wien and the Postal Service had opportunities to comment on the reasonableness of the rates. Neither raised an objection to the fixing of the rates. The Postal Service cannot argue that these rates which it has conceded are obsolete, are unreasonably high. (See Order 79-11-99) GNA, on the other hand, gets the Opportunity to carry mail immediately. Furthermore, this rate will be subject to retroactive adjustment when we establish a final rate. Therefore we believe that no one will be prejudiced by our action which gives the Postal Service and the Alaskan public the benefit of increased service effective immediately upon the certification of GNA. Accordingly, we waive the procedural requirements of Rule 310.

Based on the foregoing, the Board finds and concludes that:

1. On and after the commencement by Great Northern Airlines of the carriage of mail pursuant to a certificate of public convenience and necessity, the fair and reasonable temporary rates of compensation to be paid by the Postmaster General pursuant to the provisions of Section 406 of the Federal Aviation Act of 1958, as amended, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith shall be the service mail rates established by Orders 71-2-103 and 76-2-63.

2. The temporary service mail rates established in this order shall be paid in their entirety by the Postmaster General and shall be subject to retroactive adjustment, commencing with the date of inauguration of mail service by Great Northern pursuant to its certificate of public convenience and necessity as may be required by the order establishing final service mail rates in this investigation.

3. An investigation will be instituted in this docket to determine the final service mail rates to be paid GNA.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly Sections 204(a), and 406, and the Board's Procedural Regulations promulgated in 14 CFR Part 302.

1. We institute an investigation to determine the fair and reasonable service mail rates to be paid by the Postmaster General to Great Northern

Airlines, Inc., for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, over Great Northern's entire certificated operations.

2. The fair and reasonable temporary rates of compensation to be paid by the Postmaster General to Great Northern Airlines, Inc., on and after the commencement of certificated mail operations for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, for operations between points which it is presently or hereafter may be authorized to carry mail by its certificate of public convenience and necessity are the rates established by Orders 71-2-102 and 76-2-63.

3. The temporary service mail rates established in this order shall be paid in their entirety by the Postmaster General and shall be subject to retroactive adjustment to the date of the commencement of mail operations as may be required by the order establishing final service mail rates in this investigation.

4. We shall serve this order upon the Postmaster General and Great Northern Airlines, Inc.

We will publish this order in the Federal Register.

By the Civil Aeronautics Board,  
Phyllis T. Kaylor,<sup>4</sup>  
Secretary.

[FR Doc. 79-37357 Filed 12-4-79; 8:45 am]  
BILLING CODE 6320-01-M

[Docket No. 37181; Order 79-11-220]

#### Kansas City-Memphis/Omaha/Sioux City Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-11-220, Kansas City-Memphis/Omaha/Sioux City Show-Cause Proceeding. Docket 37181.

SUMMARY: The Board is proposing to grant Kansas City-Memphis/Omaha/Sioux City authority to Republic Airlines, Ozark Air Lines, and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all interested persons listed below, no later than January 7, 1980, a statement of objection, together with a summary of testimony, statistical data, and other material expected to be

<sup>4</sup>All members concurred.

<sup>1</sup>We also lifted the suspension of Alaska Airlines over this route.

<sup>2</sup>These rates are being paid to Wien as temporary rates since the carrier's rate has been open since February 24, 1979. By Order 79-11-22, we proposed to establish a new rate for Wien for the transportation of priority and non-priority mail over its intra-Alaska routes. This order, however, has not yet been finalized.

<sup>3</sup>Order 77-12-157, *Priority and Nonpriority Domestic Service Mail Rates Investigation*, Docket 23080-2.

relied upon to support the stated objections.

**ADDITIONAL DATA:** All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be considered in the first year are directed to do so no later than.

**ADDRESSES:** Objections or Additional Data should be filed in Docket 37181, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

**FOR FURTHER INFORMATION CONTACT:** Sherry Kinland, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. (202) 673-5333.

**SUPPLEMENTARY INFORMATION:** Objections should be served upon Republic Airlines, Ozark Air Lines, and the Omaha Airport Authority.

The complete text of Order 79-11-220, is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-11-220, to the Distribution Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

By the Director, Bureau of Domestic Aviation: November 30, 1979.

Phyllis T. Kaylor,  
Secretary.

[FR Doc. 79-37355 Filed 12-4-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 37166; Order 79-11-204]

#### Northwest Alaska Bush Points Christmas Mail Service Exemptions; Order Granting Exemptions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of November 1979.

In order 79-8-133, issued August 29, 1979, we initiated the Northwest Alaska Bush Route Proceeding in Docket 36447. We ordered all persons to show cause why we should not grant authority to Great Northern Airlines (GNA) and Alaska Airlines (ASA) to carry mail to the bush points served out of Nome and Kotzebue, Alaska. In that order, we tentatively found that "this grant of authority to the bush points to GNA and ASA will give them and the Postal Service maximum flexibility to restructure, as needed, the existing system of mail service to Northwest Alaska, and to respond quickly and

adequately to changing conditions in the future."<sup>1</sup>

On October 29, 1979 Munz Northern Airlines (Munz) which has been serving these points under subcontract from Wien Air Alaska, current holder of a monopoly on federally certificated service to the bush points (except for Buckland, Candle, and Deering at which Munz is currently certificated) applied for certificated authority at those points it now serves under subcontract. Munz also filed a motion to consolidate its application, Docket 37000, with the *Northwest Alaska Bush Points Proceeding*, Docket 36447.

Wien has filed objections to the show cause order on bush point mail authority and to Munz' motion to consolidate. Wien has also filed a motion to dismiss Munz' application for new certificate authority to the bush points. In its pleadings Wien raises a number of substantive and procedural points, which we will consider in the appropriate dockets. Because we wish to give these objections careful consideration, we will not finalize our show cause order or take other action in the *Northwest Alaska Bush Points Proceeding* before December 1, 1979, the date on which we had proposed that the new mail authority to the bush points be effective.

However, we find that there are special circumstances present that warrant the use of our exemption power to help assure effective mail service during the Christmas holiday season. First, while the bush points are uniquely dependent on air mail service throughout the year, the need for mail service—and the concomitant burden on the post office—is particularly great during the Christmas season. These mail service needs have repeatedly been brought to our attention both at Oral Argument in the Northwest Alaska Service Investigation (Docket 31571) and at the hearings on implementing the small communities service program held in Alaska.

Both ASA and GNA, in their answers to our show-cause order, have stressed the importance of service to the bush points during the holiday season.<sup>2</sup> Their claims are well founded.

Second, Munz has recently filed notice of its intent to terminate its subcontract with Wien at 22 bush points as of December 1, 1979. (We are responding to that notice in a separate order.) Wien has made other arrangements for service to its bush

points. While we have no reason to doubt the general adequacy of these arrangements, we are concerned that the change to a new service during this peak period (given the start-up problems that sometimes accompany new service) might aggravate the service difficulties that generally exist at this time.

Since we feel a special obligation to the northwest Alaska bush points, in view of their dependence on air transportation, we find that the grant of temporary exemptions to the three carriers that have expressed an interest in providing them with mail service is consistent with the public interest. Our action will provide the Postal Service with the maximum flexibility to ensure the best possible mail service to these communities during the Christmas season.<sup>3</sup>

We will therefore, grant exemptions from section 401 of the Act to permit GNA, ASA, and Munz to engage in the air transportation of mail between Nome and Kotzebue, Alaska and the bush points from December 1, 1979 until January 15, 1980, by which time we expect to reach a decision in the *Northwest Alaska Bush Route Proceeding*.

We also find that the granting of these exemptions does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environment Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975.

Accordingly,

1. We exempt Great Northern Airlines, Alaska Airlines, and Munz Northern Airlines from the provisions of section 401 and the terms, conditions and limitations of their certificates to the extent necessary to permit them to engage in the air transportation of mail from December 1, 1979 through January 15, 1980 between Nome and Kotzebue,

<sup>1</sup>The Postal Service, through Robert Scherr, Assistant General Counsel for Transportation, has advised our staff that it would welcome the exemptions because of the extra mail volume during the Christmas period. However, it will not be in any position to decide whether to tender mail to ASA, GNA or Munz until it can determine the adequacy of their facilities and schedules and service mail rates have been set (ASA and GNA already have service mail rates.)

The Postal Service has a number of options available to supplement the authority we are granting here to help assure good mail service during this period. For example, it could permit certificated airlines operating over Alaska mainline routes to interline mail to the bush points on air taxis or other certificated carriers—a practice that the Service now prohibits. We are not attempting to second guess the Service's judgment or dictate which remedy it should adopt; only to provide it with more options for meeting northwest Alaska's mail service needs during the Christmas season.

<sup>2</sup>Order 79-8-133 at p. 1.

<sup>3</sup>ASA has also urged the Board to grant exemptions to permit mail service if we were not yet prepared to make our show-cause order final.

Alaska, on the one hand, and Shismaref, Wales, Tin City, Brevig, Teller, Gambell, Savoonga, Solomon, Galovin, Council, White Mountain, Elm, Koyuk, Shaktoulik, Cape Lisburne, Point Hope, Kivalina, Noatak, Ambler, Kabuk, Shunguak, Noorvik, Selawik, Buckland, Candle, Kiana, and Deering, Alaska on the other.

2. The authority granted here shall be effective notwithstanding the filing of petitions for reconsideration.

3. We shall serve a copy of this order on the municipal authorities of each point named here, on Wien Air Alaska, Great Northern Airlines, Alaska Airlines, Munz Northern Airlines, the Alaska Transportation Commission and the United States Postal Service.

We will publish the order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-37356 Filed 12-4-79; 8:45 am]

BILLING CODE 6320-01-M

#### COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

#### Procurement List 1980; Establishment Correction

In FR Doc. 79-36429 appearing at page 67926 in the issue Tuesday, November 27, 1979, make the following changes:

1. On page 67927, first column, under *Class 6230*, "Flashlight (H)" should read "Flashlight (SH)"; and in the third column, (a) Under *Class 7110*, second line, "( \* \* \* Bvmt Rqumt )" should read "( \* \* \* Gvmt Rqmt )". (b) under *Class 7210*, fifth line, the first four-digit number now reading "9176" should read "0176"; and in the fourth line under *Pillow, Bed*, the first two-digit number now reading "00" should read "01".

2. On page 67929, first column, under *Class 7910*, second line, the third three-digit number reading "687" should read "6687"; under *Class 7920*, third line under *Broom, Upright*, "4385" should read "8305"; the first four-digit number after *Brush, Sanitary* reading "2929" should read "7920" and the last four-digit number on that same line reading "4920" should read "7920"; and the first series of numbers after *Cloth, Polishing* reading "7920-00-2" should be deleted.

3. On page 67929, second column, *Class 8105*, Bag, Cotton should read as set forth below:

Bag, Cotton (IB) 8105-00-183-6981, 8105-00-281-3924, 8105-00-183-6982, 8105-00-179-

0089, 8105-00-271-1511, 8105-00-183-6985, 8105-00-174-0836, 8105-00-183-6989, 8105-00-290-3360.

4. One page 67929, third column, eighteenth line, the second three-digit number reading "935" should read "926"; and in the nineteenth line, the first three-digit number reading "935" should read "926".

5. On page 67931, first column, second line under *Naval Air Station Miramar*, insert "M495;" after "M340;".

BILLING CODE 1505-01-M

#### CONSUMER PRODUCT SAFETY COMMISSION

[Petition CP 79-4]

#### Unlicensed Two-Wheeled Motorized Vehicles

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Denial of petition.

**SUMMARY:** The Commission has denied a petition to regulate "unlicensed, two-wheeled motorized vehicles." The petition requested design and labeling requirements to address the risk to children under age 14 from these off-road vehicles. The Commission's denial is based on the fact that the vast majority of injuries associated with these vehicles are related to the way they are used and not to design characteristics which the Commission could effectively or practically regulate.

**ADDRESS:** Copies of the petition and the staff's briefing materials may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

**FOR FURTHER INFORMATION CONTACT:** Douglas L. Noble, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6453.

**SUPPLEMENTARY INFORMATION:** Under section 10 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2059, any interested person may petition the Consumer Product Safety Commission (CPSC) to begin a proceeding to issue, amend, or revoke a consumer product safety standard or ban. Section 10 requires the Commission, if it denies such a petition, to publish its reasons for denial in the Federal Register.

In October 1978 two physicians from Seattle, Washington petitioned the Commission to regulate "unlicensed, two-wheeled motorized vehicles" (UTMV's) a product category that includes such off-road vehicles as mini bikes, trailbikes, and minicycles

(Petition CP 79-4). Dr. Frederick Rivara and Dr. Lawrence Berger requested that the Commission issue four types of requirements for UTMV's: (a) Design changes that would permit only individuals the size of an average 14 year old or larger to ride them; (b) limits on their maximum attainable speed; (c) design changes that would permit only one rider; and (d) cautionary labeling requirements.

The Commission evaluated the data submitted with the petition and other available data. In addition, the Commission obtained information from the American Motorcyclist Association, a user organization, and the Motorcycle Industry Council, a trade association of cycle manufacturers.

The Commission believes that riding UTMV's can be a dangerous activity, but that the danger stems principally from the way they are used rather than from the way they are designed. UTMV's are generally ridden on rough terrain, and some injuries will undoubtedly occur when riders bump into obstacles and fall off the vehicles. Riders generally understand this risk and no CPSC-issued design requirements for UTMV's would eliminate or even substantially reduce it.

Therefore, the Commission has denied the petition and decided not to pursue at this time the specific requirements it requested. There is insufficient information available to support a finding that a safety standard is reasonably necessary to address an unreasonable risk of injury associated with UTMV's. More specifically:

1. The drastic remedy of banning UTMV's outright is not justified by the injury risk, particularly since the reported injuries have been declining sharply in recent years. Motor bike injuries requiring hospital emergency room treatment decreased from approximately 31,000 in 1973 to approximately 19,000 in 1978.

2. Cautionary labeling of the nature suggested by petitioners and directed at UTMV users or their parents is unlikely to produce cost-effective results. The Commission believes that one factor behind the popularity of UTMV's is the challenge of riding them over uncertain terrain. If so, any labeling requirement that focused on this inherent risk would probably fail to change the behavior of UTMV riders.

3. It would be neither practical nor effective to attempt to regulate UTMV's so that only one person, no smaller than the average 14 year old, can ride one. Anthropometric data (showing overlap of physical size among age groups) indicate that a rider-size limitation would make UTMV's available to large

\* All Members concurred.

12 year olds but not to small adults. In addition, injuries to riders of vehicles that are too large for them to handle might increase. A one-rider limitation could similarly increase injuries by encouraging unsafe attempts to circumvent it. In an analogous situation, the Commission knows that passengers often ride on the handlebars or frames of bicycles clearly designed for one rider, and that this is a factor which contributes to injuries.

4. Based on existing information, a requirement placing limits on attainable speeds is not justified for UTMV's. However, the Commission has decided to explore ways in which UTMV's can be made safer, from the standpoint of risks that may be associated with higher speeds, and other stated concerns.

For example, risks are presented by hot surfaces, certain gas tank placements, and inadequate stability. (The petitioners identified these risks and asked the Commission to undertake engineering studies to address them.) Without undertaking engineering studies to determine the precise degree of these risks, the Commission encourages industry to address them with voluntary standards. The Commission staff will be monitoring the industry's activities on UTMV safety.

In addition, the Commission has discussed the possible disclosure to prospective purchasers of accurate speed capabilities, at time of sale, for various UTMV's. It is possible that, if such information were made available, parents and other purchasers might be able to make better-informed choices. Accordingly, the Commission has been discussing the advisability and feasibility of speed information disclosure with representatives of the industry and will be monitoring their response.

Finally, the Commission already has available consumer information materials on the proper use of UTMV's. These can be obtained by writing the Office of Communications, Consumer Product Safety Commission, Washington, D.C. 20207.

Although the Commission has denied the petition, the option of mandatory regulation can be reopened. This is true of the requirements specifically sought in the petition, as well as all other safety requirements that might reduce risks of injury associated with UTMV's.

Dated: November 27, 1979.

Sadye E. Dunn,  
Secretary, Consumer Product Safety Commission.

[FR Doc. 79-37389 Filed 12-4-79; 8:45 am]

BILLING CODE 6355-01-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

[ERA Docket No. 79-CERT-106]

#### Energy Systems Division of Northern Natural Gas Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on October 17, 1979, Energy Systems Division of Northern Natural Gas Company (Energy Systems), 25 Main Place, Council Bluffs, Iowa 51501, filed a application for certification of an eligible use of natural gas to displace fuel oil at its Howard Street Plant facility in Omaha, Nebraska pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126-A, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.—4:30 p.m. Monday through Friday, except Federal Holidays.

In its application, Energy Systems states that the volume of natural gas for which it requests certification is 550,000 Mcf which is estimated to displace the use of approximately 4,000,000 gallons of No. 2 home heating oil (0.2-0.3% sulfur) before April 1, 1980, at the Howard Street Plant facility.

The eligible seller is Perry Gas Companies, Box 7059, Odessa, Texas 79769. The gas will be transported by the Northern Natural Gas Company, 2223 Dodge Street, Omaha, Nebraska 68102, the Metropolitan Utilities District, 1723 Harney Street, Omaha, Nebraska 68102, and the Pioneer Natural Gas Company, P.O. Box 511, Amarillo, Texas 79163.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126-A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before December 15, 1979.

An opportunity to make an oral presentation of data, views, and arguments whether against or in support of this application may be requested by any interested person in writing on or before December 15, 1979. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a notice

will be given to Energy Systems and any persons filing comments, and published in the Federal Register.

Issued in Washington, D.C. on November 29, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-37391 Filed 12-4-79; 8:45 am]

BILLING CODE 6450-01-M

#### Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) notice is hereby provided that a meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on December 18, 1979, at the headquarters of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 9:00 a.m. The purpose of this meeting is to permit attendance by representatives of the IAB at a meeting of the Standing Group on Emergency Questions (SEQ) which is being held at Paris on that date. The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed.

##### A. Normal Business Section

1. Approval of draft agenda.
2. Summary of Record of Twenty-Ninth Meeting.
3. Report by the Chairman of the SEQ Working Group on Dispute Settlement Center.
4. Lessons learnt from present supply crisis and action programme:
  - (A) Review of the Governing Board meeting of October 11, 1979.
  - (B) Appraisal of 1979 achievements.
  - (C) Work programme for SEQ resulting from Governing Board (GB) suggestions and overall 1980 activity outlook.
5. Simplified IEA oil sharing system.
6. Demand Restraint:
  - (A) Summary of individual countries' reviews.
  - (B) Indepth demand restraint review of the United States.
  - (C) Indepth demand restraint review of Spain.
  - (D) Further review programme.
7. Emergency reserves and overall stock position:
  - (A) Emergency reserves of participating countries on October 1, 1979 and final July 1, 1979 figures.
  - (B) Stock position and outlook through next winter.
  - (C) Determining levels of consumer stocks.

(D) IAB comments on consumer stock assessments.

8. IAB and ISAG:

(A) IAB/work programme for 1980.

(B) ISAG staffing, recent developments.

(C) ISOM (ISAG/Secretariat Operations Manual).

9. Emergency Management Manual amendments:

(A) IEA and European Economic Community (EEC).

(B) Advancement of Base Period Final Consumption (BPFC) (final reading).

(C) Seasonality in allocation of oil in an emergency (final reading).

10. Special section of the data system: (A) BPFC 3rd Quarter 1978—2nd Quarter 1979 (final).

(B) Progress report by the *ad hoc* group on the emergency data system.

(C) Quality of the October and November Questionnaire A and B data submissions.

(D) Standard conversion factors.

(E) Continuation of Questionnaire A and B submission.

~11. AST-3 preparation, design group.

12. Future meeting dates.

13. Any other business.

B. Assessment of Oil Supply Situation

1. Analysis of October and November Questionnaire A and B submission.

2. Oil market position and outlook.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., November 28, 1979.

Craig S. Bamberger,  
Acting Assistant General Counsel,  
International Trade and Emergency  
Preparedness.

[FR Doc. 79-37376 Filed 12-4-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of November 2,  
1979, Through November 9, 1979

Notice is hereby given that during the week of November 2, 1979 through

November 9, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

November 28, 1979.

List of Cases Received by the Office of Hearings and Appeals

[Week of Nov. 2 through Nov. 9, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 2, 1979	Chevron U.S.A. Inc., San Francisco, California	BEN-001	Request for Interim Order. If granted: The exception relief granted in the September 24, 1979, Proposed Decision and Order (Case No. DEE-7839) would be implemented on an interim basis pending the issuance of a Final Decision and Order.
Nov. 2, 1979	Russian River Gas Company, Inc., Santa Rosa, California	BEE-0281	Price Exception. If granted: Russian River Gas Company, Inc., would be permitted to establish new classes of purchaser for residual and commercial purchases of propane in order to reduce the cost to the firm of implementing the Miller-Warren Energy Lifeline Act passed by the California state legislature. Alternatively, the firm would be permitted to raise its propane prices for high-volume users above the maximum levels permitted by DOE regulations.
Nov. 5, 1979	Alpha Park Public Library, Bartonville, Illinois	BEE-0322	Exception to Emergency Building Temperature Restrictions. If granted: Alpha Park Public Library would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Nov. 5, 1979	Atlantic Richfield Company, Houston, Texas	BEN-0002	Request for Interim Order. If granted: The exception relief granted in the October 3, 1979, Proposed Decision and Order (Case No. DXE-7864) would be implemented on an interim basis, pending the issuance of a Final Decision and Order.
Nov. 5, 1979	Automatic Comfort Corporation, Hartford, Connecticut	BEE-0294	Allocation Exception. If granted: Automatic Comfort Corporation would receive an exception from the provisions of 10 CFR 211 which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 5, 1979	Patricia A. Barnes, McLean, Virginia	BFA-0036	Appeal of Information Request Denial. If granted: The October 16, 1979, Information Request Denial issued to Patricia A. Barnes by the Office of the Inspector General would be rescinded, and the applicant would receive access to certain DOE documents.
Nov. 5, 1979	Charter Oil Company, Jacksonville, Florida	BEE-0284	Price Exception. If granted: Charter Oil Company would receive an exception from the provisions of 10 CFR 212.83 regarding the pricing of crude oil.
Nov. 5, 1979	Flint Ink Corporation, Detroit, Michigan	BEE-0288	Exception to the Reporting Requirements. If granted: Flint Ink Corporation would receive an exception from the requirements that it complete and submit Forms EIA-25 ("Prime Suppliers Monthly Report") and EIA-169 ("Prime Suppliers Three-Month Projection of Total Supply and Stocks").
Nov. 5, 1979	Kinetic Research, Goleta, California	BFA-0041	Appeal of Information Request Denial. If granted: The October 11, 1979, Information Request Denial issued to Kinetic Research by the Office of Procurement Operations would be rescinded, and the firm would receive access to certain DOE documents.
Nov. 5, 1979	L. E. Jones Production Company, Duncan, Oklahoma	BEE-0292	Exception to the Reporting Requirements. If granted: L. E. Jones Production Company would receive an exception from the requirement that it complete and submit Form EIA-23 ("Annual Survey of Domestic Oil and Gas Reserves").
Nov. 5, 1979	Office of Enforcement (Armour Oil Company), Washington, D.C.	BRF-0001	Petition for Implementation of Special Refund Procedures. If granted: The Office of Enforcement would have the Office of Hearings and Appeals implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with a Remedial Order which the DOE issued to Armour Oil Company on May 21, 1976.
Nov. 5, 1979	Palmer Petroleum Products, Inc., Westminster, Maryland	BEE-0282	Price Exception. If granted: Palmer Petroleum Products, Inc., would receive an exception from the provisions of 10 CFR 212 which would permit the firm to sell motor gasoline at prices above the applicable ceilings.
Nov. 5, 1979	Rock Island Refining Corporation, Indianapolis, Indiana	BES-0014	Request for Stay. If granted: Rock Island Refining Corporation would receive a Stay of the October 24, 1979, Assignment Order issued to Little Champ Oil Company by the Economic Regulatory Administration Region V Office of Petroleum Operations regarding Rock Island Refining Corporation's supply obligations to Little Champ Oil Company.



## List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Nov. 2 through Nov. 9, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 5, 1979	Utilities Board of Town of Citronelle-Gas, Theodore, Alabama	BEE-0293	Exception to the Reporting Requirements. If granted: Utilities Board of the Town of Citronelle-Gas would receive an exception from the requirement that it complete and submit Form EIA-149 ("Natural Gas Supply, Requirements and Usage").
Nov. 6, 1979	B.O.P. Corporation, Hamilton, Kansas	BEE-0287	Price Exception. If granted: B.O.P. Corporation would receive an exception from the provisions of 10 CFR 212 which would permit the firm to sell motor gasoline at prices above the applicable ceilings.
Nov. 6, 1979	Beacon Oil Company, Hanford, California	BEL-0007	Request for Temporary Exception. If granted: Beacon Oil Company would receive a Temporary Exception from the provisions of 10 CFR 212.83 which would permit the firm to pass through incremental expenses relating to the blending, storage, distribution, and marketing of gasoline.
Nov. 6, 1979	Diamond Shamrock Corporation, Amarillo, Texas	BEA-0040	Appeal of Entitlements Notice. If granted: The July 1979 Entitlements Notice issued by the Economic Regulatory Administration with respect to Diamond Shamrock Corporation's entitlements purchase obligations would be modified.
Nov. 6, 1979	J. W. Downey, Maryville, Tennessee	BEE-0298	Allocation Exception. If granted: J. W. Downey would receive an exception from the provisions of 10 CFR 211 which would permit the firm to receive an allocation of unleaded gasoline for the purpose of blending gasoline.
Nov. 6, 1979	Energy Reserves Group, Wichita, Kansas	BEE-0290	Price Exception. If granted: Energy Reserves Group would receive an exception from the provisions of 10 CFR 212, Subpart D which would permit the firm to sell crude oil at a price above the applicable ceiling.
Nov. 6, 1979	Ergon, Inc., Vicksburg, Mississippi	BEE-0308, BEL-0308	Allocation Exception, Request for Temporary Exception. If granted: Ergon, Inc., would receive a Temporary Exception and an exception from the provisions of 10 CFR 211.65 which would permit the firm to receive an increased allocation of crude oil.
Nov. 6, 1979	Kentucky Oil and Refining Company, Inc., Betsy Layne, Kentucky	BEL-0013, BES-0013	Application for Temporary Exception, Request for Stay. If granted: Kentucky Oil and Refining Company, Inc., would receive a Temporary Exception from the provisions of 10 CFR 211.67 which would modify the firm's entitlements purchase obligations. Kentucky Oil and Refining Company, Inc., would also receive a Stay of its entitlements purchase obligations pending a final determination on the temporary exception request.
Nov. 6, 1979	L. J. Bonnaffons, New Orleans, Louisiana	BEA-0046	Appeal of Assignment Order. If granted: The November 1, 1979, Assignment Order issued to Shell Oil Company by the Economic Regulatory Administration Region IV Office of Petroleum Operations regarding the firm's supply obligation to L. J. Bonnaffons would be rescinded.
Nov. 6, 1979	Marathon Oil Company, Findlay, Ohio	BEA-0043, BEA-0044, BEA-0045	Appeals of Redaction Orders. If granted: The three October 9, 1979, Orders from the Redaction of Product issued to Marathon Oil Company by the Economic Regulatory Administration Region IV Office of Petroleum Operations would be rescinded.
Nov. 6, 1979	University of Illinois at Chicago Circle, Chicago, Illinois	BFA-0042	Appeal of Information Request Denial. If granted: The October 22, 1979, Information Request Denial issued to the University of Illinois at Chicago Circle by the Chicago Operations and Regional Office would be rescinded, and the applicant would receive access to certain DOE information.
Nov. 7, 1979	Amdahl Corporation, Washington, DC	BFA-0047	Appeal of Information Request Denial. If granted: The June 29, 1979, Information Request Denial and the October 1, 1979, Supplemental Order issued to Amdahl Corporation by the Oak Ridge Operations Office would be rescinded, and the firm would be granted access to certain DOE documents.
Nov. 7, 1979	Gulf Energy Refining Corporation, Washington, DC	BEL-0016, BES-0016	Temporary Exception, Request for Stay. If granted: Gulf Energy Refining Corporation would receive a Stay of the provisions of 10 CFR 211.67 regarding the firm's entitlements purchase obligations. Gulf Energy Refining Corporation would also receive a Temporary Exception from the provisions of 10 CFR 211.67 which would permit the firm to sell entitlements.
Nov. 7, 1979	Union Oil Company of California, Schaumburg, Illinois	BEH-0002	Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened with respect to a Statement of Objections submitted by Union Oil Company in response to the September 14, 1979, Proposed Decision and Order issued to Howie Oil Company.
Nov. 8, 1979	Amerada Hess Corporation, New York, New York	BEA-0048, BES-0048	Appeal of Assignment Order, Request for Stay. If granted: The September 12, 1979, Assignment order issued to the Amerada Hess Corporation by the Economic Regulatory Administration Region I Office of Petroleum Operations would be rescinded. The firm would also receive a Stay pending a final determination on its Appeal.
Nov. 8, 1979	Marathon Oil Company, Findlay, Ohio	BEA-0050	Appeal of Assignment Order. If granted: The October 12, 1979, Assignment Order issued to Marathon Oil Company by the Economic Regulatory Administration Region IV Office of Petroleum Operations with respect to Marathon Oil Company's supply obligations to Public Oil Company, Inc., would be rescinded.
Nov. 8, 1979	Time Oil Company, Washington, DC	BEL-0008	Price Exception. If granted: Time Oil Company would receive a Temporary Exception from the provisions of 10 CFR 212.83 which would permit the firm to pass through incremental expenses relating to the blending, storage, distribution, and marketing of gasoline.
Nov. 9, 1979	Robert E. Augustine, Annapolis, Maryland	BFA-0051	Appeal of Information Request Denial. If granted: The October 12, 1979, Information Request Denial issued to Robert E. Augustine by the Office of Uranium Resources and Enrichment would be rescinded, and the applicant would receive access to certain DOE documents.
Nov. 9, 1979	Bayside Fuel Oil Depot Corporation, Brooklyn, New York	BRH-0013, BRD-0013	Motion for Evidentiary Hearing, Motion for Discovery. If granted: Discovery would be granted and an evidentiary hearing convened with respect to the Statement of Objections submitted by Bayside Fuel Oil Depot Corporation in response to a July 26, 1979, Proposed Remedial Order (Case No. DRO-0361) issued to the firm by the Economic Regulatory Administration Region II Office of Enforcement.
Nov. 9, 1979	Louisiana Power & Light Company, New Orleans, Louisiana	BEE-0316	Exception to the Reporting Requirements. If granted: Louisiana Power and Light Company would receive an exception from the requirements that it complete and submit Form EIA-149 ("Natural Gas Supply, Requirements and Usage").
Nov. 9, 1979	O'Meara Brothers, New Orleans, Louisiana	BXE-0317	Extension of relief granted in O'Meara Brothers 3 DOE Par. (June 28, 1979). If granted: O'Meara Brothers would be permitted to continue to sell the crude oil produced from the Louisiana State Lease 2192 at upper tier ceiling prices.
Nov. 9, 1979	State University Binghamton, Binghamton, New York	BEE-0319	Exception to the Emergency Building Temperature Restrictions. If granted: The State University of New York at Binghamton would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.

## Notices of Objection Received

[Week of Nov. 2 to Nov. 9, 1979]

Date	Name and location of applicant	Case No.
11/2/79	Mike Rose Oil Company, Washington, D.C.	DEE-2733
11/5/79	Arnie's Service Center, Green Bay, Wis.	BEO-0110
11/5/79	City of Beaver Dam, Beaver Dam, Wis.	BEO-0104
11/5/79	Farve's Standard, Stauton, Ill.	BEO-0108
11/5/79	Gil's Amoco, Herndon, Va.	DEE-3648
11/5/79	Groff's Food Store, Ephrata, Pa.	BEO-0111
11/5/79	H & H Gulf, Dallas, Tex.	BEO-0109
11/5/79	Jet Delivery, Inc., Los Angeles, Calif.	BEO-0107
11/5/79	Sunny Service Stations, Inc., Portland, Oreg.	BEO-0112
11/6/79	Arnold Shell Service Station, Arnold, Calif.	DEE-7478
11/6/79	Bob Dix Union 76, Wilmington, Ohio	BEO-0028
11/6/79	Brookside Store, Orford, N.H.	DEE-7628
11/6/79	Fox Standard Service, Spooner, Wis.	BEO-0080
11/6/79	Johnson's Mini-Market, Chicago, Ill.	BEO-0113
11/6/79	Ray's Shell Service, Mission Hills, Calif.	DEE-4814
11/6/79	Scottsdale Service Center, Omaha, Nebr.	BEO-0114
11/6/79	Sittard Service Station, Chicopee, Mass.	DEE-7300
11/6/79	Tony's Service Center, Miami, Fla.	DEE-3943
11/6/79	Waupeon Wash N' Fill, Waupeon, Ohio.	BEO-0115
11/7/79	Keep Marketing, Inc., Bossier City, La.	BEO-0117
11/7/79	River Oil Co. of Jackson, Jackson, Tenn.	DEE-4972
11/7/79	Spencer Safeway Standard Service, Chicago, Ill.	BEO-0118
11/7/79	Tyson Oil Co., Bartlesville, Okla.	DEE-7082
11/8/79	LeBlanc's Arco, Lake Elsinore, Calif.	DEE-5129
11/8/79	Orange Service Co., Inc., Clermont, Fla.	BEO-0122
11/9/79	Drug Transport, Atlanta, Ga.	BEO-0125
11/9/79	Len's Self Service & Mini Shops, Palos Hills, Ill.	DEE-7490
11/9/79	Montgomery Village Servicecenter, Inc., Gaithersburg, Md.	DEE-3645
11/9/79	Plantation Shell, Plantation, Fla.	BEO-0126
11/9/79	Red Carpet Car Wash, Hillsborough, Calif.	BEO-0120
11/9/79	Seeljay, Inc., South Attleboro, Mass.	BEO-0124
11/9/79	Union Oil Company of California, Los Angeles, Calif.	DEE-8000
11/9/79	Union Oil Company of California, Los Angeles, Calif.	DEE-8021

## List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of November 2 Through November 9, 1979

If granted: The following firms would receive an exception from the activation of the Standby Petroleum Product Allocation Regulations with respect to motor gasoline.

November 2, 1979

Red Bluff Mobil Service Center, BXE-0283, Texas.

November 3, 1979.

Phillips &amp; Mungel BXE-0300, Florida.

November 5, 1979.

Avis Rent a Car System Inc., BEE-0291, North Carolina.

Frontino, Frank, BEE-0296, California.

New York State Police Dept, BEE-0288, New York.

Nor-Bel Servicecenter, BEE-0295, New York.

Shoreline Petroleum Co., BEE-0251, Illinois.

Vricella, Antonio, BEE-0289, Massachusetts.

November 6, 1979.

Board of Levee Commissioners, BEE-0302, Louisiana.

Cox's Amoco &amp; Car Wash, BEE-0303, Maryland.

Greenwood, Exxon BEE-0307, Kentucky.

Ingram Creek Service, BEE-0301, California.

Johnson, R.A., BEE-0306, Maryland.

Lee's North City Arco, BEE-0304, Washington.

Morgan's Amoco, BEE-0305, Maryland.

Save Chief 2, BEE-0297, Mississippi.

November 7, 1979.

W. Broward Phillips 66 Ser., BXE-0311, Florida.

November 8, 1979.

Wetherington &amp; Houser Service, BEE-0312, Arkansas.

[FR Doc. 79-37331 Filed 12-4-79; 8:45 am]

BILLING CODE 6450-01-M

## Issuance of Proposed Decisions and Orders; November 5, 1979 through November 9, 1979

Notice is hereby given that during the period November 5, through November 9, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with the Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections and aggrieved party must specify each issue of fact of law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of

the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20451, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. e.s.t., except federal holidays.

November 29, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

## Proposed Decision and Order

BGN LP Gas Co., Stryker, Ohio DEE-1398, propane

BGN LP Gas Company (BGN) filed an Application for Exception from the provisions of 10 CFR 212.111(c)(1). The exception request, if granted, would permit BGN to increase its maximum lawful selling price for propane by 4.0 cents per gallon. On November 6, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Borough of Chambersburg, Pa., DEE-6575

City of Belmont, Belmont, Miss., BEE-0037

City of Berry, Berry, Ala., BEE-0024

City of Bowden, Bowden, Ga., BEE-0025

City of Hawkinsville, Hawkinsville, Ga., BEE-0027

City of Lawrenceville, Lawrenceville, Ga., BEE-0028

City of Monticello, Monticello, Ga., BEE-0029

City of New Albany, New Albany, Miss., BEE-0038

City of Pikeville, Pikeville, Tenn., BEE-0040

City of Pontotoc, Pontotoc, Miss., BEE-0039

City of Shellman, Shellman, Ga., BEE-0030

City of Sugar Hill, Sugar Hill, Ga., BEE-0031

City of Thomson, Thomson, Ga., BEE-0032

City of Toccoa, Toccoa, Ga., BEE-0140

City of Trion, Trion, Ga., BEE-0033

City of Warner Robins, Ga., BEE-0034

City of Winder, Winder, Ga., BEE-0035

City of Wrens, Wrens, Ga., BEE-0036

Russellville Utilities, Russellville, Ala., BEE-0042

Water, Gas &amp; Light Commission of Albany, Albany, Ga., BEE-0228, reporting requirements

The firms listed above filed Applications for Exception from the reporting requirements of Form EIA-149 ("Natural Gas Supply, Requirements, and Usage"). If granted, the firms would not be required to file the form with the Energy Information Administration. On November 6, 1979, the Department of Energy issued a Proposed Decision and Order which determined that partial exception relief should be granted modifying the data which the firms must submit in order to simplify gathering the required data.

Gasohol, Inc., Santa Barbara, Calif., DEE-7912, gasohol

Gasohol, Incorporated filed an Application for Exception from the provisions of the Mandatory Petroleum Allocation Regulations, 10 CFR, Part 211. The exception request, if granted, would permit Gasohol, Inc. to have a base period supplier and base period allocation of unleaded gasoline for the purpose of producing and marketing gasohol. On November 7, 1979, the Department of Energy issued a Proposed Decision and Order

which determined that the exception request be granted, and directed the West Coast Office of Petroleum Operations to assign one or more suppliers to supply Gasohol, Inc. with 40,000 gallons of unleaded gasoline per month.

**Hollowell Oil Co., Hertford, N.C., DEE-7227, gasohol**

Hollowell Oil Company filed an Application for Exception from the provisions of the Mandatory Petroleum Allocation Regulations, 10 CFR, Part 211. The exception request, if granted, would permit Hollowell to purchase 288,000 gallons of unleaded motor gasoline per month over and above its base period allocation. On November 6, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part, and that Hollowell's base period allocation of unleaded motor gasoline be increased by 68,000 gallons per month.

**Jack Halbert, Tyler, Tex., DEE-7932, crude oil**

Jack Halbert filed an Application for Exception from the provisions of 10 CFR 212.73 and 212.74. The exception request, if granted, would relieve Halbert of the obligation to refund excess revenues which he obtained by charging prices for crude oil and gas well condensate in excess of the maximum levels permitted by Sections 212.73 and 212.74. The overcharges are set forth in a Proposed Remedial Order issued to Halbert on December 18, 1978. On November 5, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

**Mutual of New York, Columbus, Ohio, DEE-7835, crude oil**

Mutual of New York filed an Application for Exception from the provisions of the Emergency Building Temperature Restrictions. The exception request, if granted, would permit Mutual of New York to lower the temperature to 72° in its offices located at 1241 Dublin Road, Columbus, Ohio. On November 8, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

**Newmac Manufacturing, Inc., Woodstock, Ont., DEE-8327**

**Hunter Enterprises, Orillia, Orillia, Ont., DEE-5971**

**Powrmatic, Inc., Finksburg, Md., DEE-8225**  
**Riteway Manufacturing Co., Harrisonburg, Va., DEE-8236, consumer products**

The four firms listed above filed Applications for Exception from the provisions of 10 CFR 430, the Energy Conservation Program for Consumer Products. The exception request, if granted, would permit the firms to market their combination wood/fossil fuel furnaces without regard to the energy efficiency test procedures applicable to furnaces. On November 6, 1979, the Department of Energy issued a Proposed Decision and Order which determined that relief should be granted.

**R. H. Engelke, San Antonio, Tex., DXE-0265, crude oil**

R. H. Engelke filed an Application for Exception from the provisions of 10 CFR, Part

212, Subpart D. The exception request, if granted, would result in an extension of relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Bertha Copsey Lease for the benefit of the working interest owners at upper tier ceiling prices. On November 8, 1979, the Department of Energy issued a Proposed Decision and Order which determined that an extension of exception relief should be granted.

**S&W Engine Supply Co., Oklahoma City, Okla., DXE-7167, crude oil**

On September 11, 1979, the S&W Engine Supply Company filed an Application for Exception from the provisions of 10 CFR 212.73. The exception request, if granted, would permit S&W to continue to sell certain quantities of the crude oil which it produces from the Baker Townsend Lease in Oklahoma County, Oklahoma, at upper tier ceiling prices. On November 9, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

**Superior Oil Co., Houston, Tex., DEE-1401, DEE-1402, DEE-6391, crude oil**

The Superior Oil Company filed Applications for Exception from the provisions of 10 CFR 212.72. The exception requests, if granted, would permit Superior to recertify certain amounts of old oil produced at the McElmo Creek Unit as new oil and to eliminate the current cumulative deficiency incurred as a result of a shutdown of the oil field by dissident Navajo Indians during April 1978. On November 5, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the requests be granted.

**Petitions Involving the Motor Gasoline Allocation Regulations**

**Week of November 5, 1979 Through November 9, 1979**

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

**Company Name, Case No., and Location**

District Petroleum Products, Inc., DEE-4044; Sandusky, Ohio.  
Echo Bay Resort, DEE-5857; Wash., D.C.  
Quail Valley Car Care, DEE-6657; Missouri City, Tex.

**Petitions Involving the Motor Gasoline Allocation Regulations**

**Week of November 5, 1979 Through November 9, 1979**

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which

determined that the exception requests be denied.

**Company Name, Case No., and Location**

Abney's Amoco, DEE-3663; Wash., D.C.  
A.G. Inc., DEE-6541; Lynn, Mass.  
Amoco Travel Center, DEE-6191; Billings, Mont.  
Awads Mobil, DEE-5941; Bellflower, Calif.  
Barbara's Texaco, DEE-6948; Hurst, Tex.  
Breton Shell, DEE-4163; Grand Rapids, Mich.  
Bruce R. Cava T/A Exton Arco, DEE-5906; Exton, Pa.  
Bucklin's Downtown Amoco, DEE-5396; Huron, S. Dak.  
Chas. D. Tucker, Jr. d.b.a. Charlie's Standard Service, DEE-4395; Webster Grove, Mo.  
Cho's Self-Service, DEE-4564; Downey, Calif.  
Copsey, Inc., DEE-4038; Scottsbluff, Nebr.  
Dewey Collard, DEE-4010; Danvers, Mass.  
Fleetwing Corp., DEE-2547; Lakeland, Fla.  
Frank Catlett Retail Outlet & Mini-Mart, DEE-6641; Broken Arrow, Okla.  
Frank's North 52 Service, DEE-6947; Rochester, Minn.  
Fulton Industrial Shell, DEE-6876; Atlanta, Ga.  
Gary's Exxon, DEE-7251; Denver, Colo.  
Highland Gulf, DEE-6478; Baton Rouge, La.  
John's Auto Service, DEE-6934; Brusly, La.  
Lojek's Gas & Oil, DEE-5611; Richfield, Ohio.  
Palo/Arcoa, DEE-4980; Upper Chichester, Pa.  
Q-T-S Oil Co., DEE-6747; Port Chester, N.Y.  
610 So. Fulton Corp., DEE-4662; Floral Park, N.Y.  
Telly's Arco, DEE-7306; Roxbury, Mass.  
V & Y Garage, Inc., DEE-7262; Watertown, Mass.  
Vern's Service Center, DEE-5755; Torrance, Calif.  
Waterbury Pet. Products, DEE-3037; Waterbury, Conn.

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BILLING CODE 6450-01-M

**Issuance of Decisions and Orders; Week of October 15 Through October 19, 1979**

Notice is hereby given that during the week of October 15 through October 19, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

**Appeals**

**Dunaway, McCarthy & Dye, Washington, D.C., DFA-0487**

Dunaway, McCarthy & Dye (DMD) filed an Appeal of two partial denials by the Director of Freedom of Information and Privacy Acts Activities (the Director) of a Request for Information that DMD had submitted under the Freedom of Information Act. The matter was remanded to the Director of the Enforcement Information Section of the DOE Office of Enforcement to release to DMD one

document, portions of a second document, and the non-exempt portions of some newly located documents. The DOE denied DMD's Appeal in all other respects. In considering the Appeal, the DOE addressed the question of whether or not certain documents were exempt from mandatory disclosure under Exemptions 4 or 5 and whether material covered by exemption 5 should nevertheless be released in the public interest.

*Dunaway, McCarthy, Dye & Stewart, Washington, D.C., freedom of information DFA-0588*

Dunaway, McCarthy, Dye & Stewart filed an Appeal of a partial denial by the DOE Office of Conservation and Solar Applications of a Request for Information the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that portions of the document initially withheld under Exemption 5 should be released to the public.

*Shell Oil Co. (Southwest Research), Houston, Tex., motor gasoline DRA-0453*

The Shell Oil Company filed an Appeal from a Temporary Assignment Order issued to it by Region VI of the Economic Regulatory Administration. Although the Order directed Shell to supply the Southwest Research Institute, it failed to contain any findings of fact regarding either Southwest's need for motor gasoline or the circumstances that led to the issuance of the Order. In considering the Application, the DOE determined that because the Order did not contain the findings of fact required by 10 CFR 205.39 it was defective and should be rescinded. The Shell Appeal was therefore granted.

*Texaco Inc., Houston, Tex., diesel fuel, DEA-0649, DEA-0650*

Texaco Incorporated filed two Appeals from State Set-Aside Orders issued by the Energy Division of the North Carolina Department of Commerce. In the Appeals, the firm sought the rescission of the Orders. In considering the request, the DOE found that the firm had failed to present any evidence or to advance any legal arguments that might lead to the conclusion the State Set-Aside Orders were erroneous in fact or law or were arbitrary or capricious. The Appeals were therefore denied.

#### Remedial Order

*Champlain Oil Co., South Burlington, Vt., motor gasoline, DRO-0043*

Champlain Oil Company objected to a Proposed Remedial Order that DOE Region I issued to the firm on April 14, 1978. In the Proposed Remedial Order, DOE Region I found that during the period November 1, 1973 through June 30, 1974 Champlain had sold regular and premium motor gasoline to its wholesale and retail customers at prices that exceeded its maximum permissible selling prices calculated under 6 CFR 150.359 and 10 CFR 212.93. The firm raised a number of objections to the manner in which the DOE computed the overcharges. The DOE found, however, that the Region I Office had properly computed the amount of the firm's violation. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order.

#### Requests for Exception

*Amoco Production Co., Chicago, Ill., crude oil, DEE-4754*

Amoco Production Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Amoco to sell at upper tier ceiling prices 50.85 percent of the crude oil produced from the Cottonwood Creek Phosphoria Unit.

*City and County of Honolulu, Honolulu, Hawaii, propane and motor gasoline, DEE-7087*

The City and County of Honolulu (the County) filed an Application for Exception to permit affected refiners, resellers and retailers to pass through in their ceiling prices a three-cent-per-gallon increase in county and state taxes on liquid fuels used in motor vehicles on public highways. The DOE found that the apparent intent of the County in imposing the fuel tax, namely to allocate the costs of maintaining the public highway system fairly according to relative use, could only be realized if exception relief was granted. The DOE also found that the burden the County would incur in altering the form of the tax to permit its passthrough under DOE regulations outweighed any benefit derived from strict application of DOE regulations. The County's Application was therefore granted with respect to motor gasoline and propane, the only two products concerned.

*Husky Oil Co., Denver, Colo., crude oil, DEE-1435, DEE-1441, DEE-1442*

The Husky Oil Company filed an Application for Exception which would permit the firm to sell the crude oil produced from the Edmonston, Nicholson #4 and Nicholson #5 leases located in Santa Barbara County, California at upper tier ceiling prices. In considering the request, the DOE found that exception relief was necessary to restore the economic incentive for Husky to maintain crude oil production from the three properties involved. Accordingly, exception relief was granted. An important issue discussed in the Decision and Order was whether royalty interest owners should share in the exception relief granted to the working interest owners of crude oil producing properties under the Great Southern line of cases.

*Rex Monahan, Sterling, Colo., DXE-7950*

Rex Monahan filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil it produces from the Sandbar "B" Unit at upper tier ceiling prices. Rex Monahan, 4 DOE Par.

(September 14, 1979). The DOE concluded that exception relief should be continued to permit Rex Monahan to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Sandbar B Unit for the benefit of the working interest owners for a six-month period.

*New England Power Co., Westborough, Mass., DPI-0021, Florida Power & Light Co., Miami, Fla., DPI-0022, Texaco, Inc., White Plains, N.Y., DPI-0024, New*

*England Petroleum Corp., New York, N.Y., DPI-0025*

New England Power Company (N.E. Power), Florida Power & Light Company (Florida Power), Texaco, Inc. (Texaco) and New England Petroleum Corporation (NEPCO) filed Applications for Exception from the provisions of 10 CFR Part 213 in which the firms sought to import on a fee-exempt basis specified quantities of residual fuel oil into District I during the allocation period from May 1, 1978 through April 30, 1979. In considering the requests, the DOE found that Section 213.15 had been revised in a way which permitted N.E. Power, Florida Power and NEPCO to have enough fee exempt authority to meet their needs; their Applications for Exception were therefore dismissed as moot. The DOE also found, however, that exception relief for Texaco was necessary to alleviate an exceptional hardship and an unfair distribution of the burdens imposed by the Mandatory Oil Import Program.

Accordingly, exception relief for Texaco was granted and the Applications for Exception filed by N.E. Power, Florida Power and NEPCO were dismissed. The important issue discussed in the Decision and Order is whether Texaco received an equitable fee-exempt allocation compared with other District I importers of residual fuel oil.

*Tesoro Petroleum Corp., Kenai, Alaska, residual fuel oil, DPI-0019*

Tesoro Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR 213.35(c). In its Application, the firm sought a refund of license fees it paid on imports of low-sulphur residual fuel oil during May 1978. In considering the request, the DOE found that the firm had been dilatory in seeking exception relief. Accordingly, exception relief was denied. The important issues discussed in the Decision and Order are (i) whether the DOE may require a firm to act expeditiously in pursuing its administrative remedies and (ii) whether denying exception relief on the basis of delay penalizes the firm in a manner grossly disproportionate to its degree of fault.

*Vaughn Oil Co., Omaha, Nebr., motor gasoline, DEE-2358*

Vaughn Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE concluded that neither the firm nor its customers would be unable to obtain adequate supplies of gasoline during the March-September 1979 period. Accordingly, exception relief was denied.

#### Requests for Stay

*Exxon Co., U.S.A., Houston, Tex., Middle distillates BES-0020*

Exxon Company, U.S.A. filed an Application for Stay from an Assignment Order issued to it by the Economic Regulatory Administration Office of Petroleum Operations. The DOE determined that in view of the question raised by Exxon in its submission and at a hearing convened in the case regarding the propriety of

assigning Exxon as one of the suppliers of middle distillates, Exxon's stay request should be granted.

*Tenneco Oil Co., Houston, Tex.; motor gasoline, DES-0275, DST-0275*

Tenneco Oil Company filed an Application for Stay and an Application for Temporary Stay of the requirement that the firm supply Publix Oil Company with motor gasoline to implement exception relief granted to Publix. In considering the Application for Temporary Stay, the DOE concluded that Tenneco had not made the requisite showing that the firm would incur an irreparable injury in the absence of stay relief. Tenneco's request for temporary stay was therefore denied. In considering the Application for Stay, the DOE determined that Tenneco had not demonstrated a substantial likelihood of success on the merits of the firm's claims. Specifically, the DOE found that its proceedings did not deny Tenneco its due process rights or violate DOE's procedural regulations. Moreover, the DOE determined that Tenneco had failed to demonstrate that denial of the stay would result in irreparable injury to the firm or to its customers, or that the firm would suffer an immediate serious hardship or gross inequity in the absence of stay relief. Finally, the DOE determined that there were not public policy reasons for granting a stay pending a decision on Tenneco's Statement of Objections. Tenneco's stay request was therefore denied.

*Union Oil Co. of California, Beverly Hills, Calif.; motor gasoline, DES-0264*

Union Oil Company of California filed an Application for Stay of an Interim Decision and Order issued to Publix Oil Company on June 14, 1979 and of a June 21, 1979 Order directing Union to supply Publix with 4,961,045 gallons of motor gasoline. The Application, if granted, would result in a stay of the two Orders pending a determination on the merits of Union's challenges to those Orders. In considering the Application, the DOE determined that Union had not demonstrated it would incur an irreparable injury in the absence of stay relief because if Union prevails on the merits of its Appeal, the DOE may provide full restitution of the motor gasoline to Union at an equitable price. The DOE determined, on the other hand, that Publix would suffer an irreparable injury if Union were granted stay relief. The DOE further determined that Union had not demonstrated that there was a strong likelihood it would succeed on the merits of either its Objection to the June 14, 1979 Proposed Decision and Order or its Appeal of the June 21, 1979 Order. Therefore, Union's Application for Stay was denied.

#### Supplemental Order

*Occidental Petroleum Corp.; Permian Corp., Los Angeles, Calif.; Houston, Tex.; crude oil, BEX-0001*

Occidental Petroleum Corporation and its wholly-owned subsidiary, Permian Corporation, filed an Application for Extension of a Stay provided for in Paragraph (10) of an Order which was issued by the Office of Hearings and Appeals to Energy Cooperatives, Inc. (ECI) on October 3, 1979

(the Order). They also sought an extension of the time to file objections to the Order. In support of their request, the firms stated that they had neither notice nor knowledge of the pending ECI proceeding. The firms further stated that an extension of time was necessary due to the complexity of the issues and the consequent difficulty in formulating a response. In considering the Application, the DOE determined that the firms' request had merit. The stay was extended until November 2, 1979. The time within which to object to the Order was also extended until October 22, 1979.

#### Interim Orders

*Chevron U.S.A. Inc., San Francisco, Calif.; crude oil, DEN-5818*

Chevron U.S.A. Inc. filed an Application for Interim Exception from the provisions of 10 CFR Part 211 and Part 212 in which the firm sought an Interim Order permitting Chevron to implement immediately the relief specified in two exception decisions that were issued to the firm in proposed form on August 22, 1979. In considering the request, the DOE found that exception relief should not be delayed pending the finalization of the Proposed Decisions. Accordingly, interim exception relief was granted. An important issue discussed in the Decision and Order is whether interim exception relief should be granted where any objections (if sustained) would only increase the level of exception relief.

#### B. Interim Orders

The following firms were granted interim exception relief that implements the relief that the DOE proposed to grant in an order issued on the same date as the Interim Order:

#### Company Name, Location, and Case No.

Little Tub Car Wash, Danville, Calif.; DEN-5919  
Long Creek Exxon, Albermarle, N.C.; DEN-7182  
Amerada Hess, Washington, D.C.; DEN-8316  
Timberlake Bros., Richmond, Va.; DEN-4853

#### Petition Involving the Motor Gasoline Allocation Regulations

The following firm filed Applications for Stay and Temporary Stay involving the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Decision and Order in which it determined that the requests be denied.

#### Company Name, Location, and Case No.

Economy Amoco, S. Attleboro, Mass.; DES-7448, DST-7448

#### Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

#### Company Name and Case No.

A's Gas & Service, DEE-5252  
Augy's Gulf, DEE-5650  
Charles Bates Shell, DEE-5866  
City of Kenner, La., DEE-7555  
Cypress Recreation and Park District, DEE-7649

Bedo's Union Oil, DEE-4420  
Blue Springs School District, DEE-7039  
Champion Brands, Inc., DEE-3485, DST-3485  
Dumont Co-op Association, DEE-5769  
Everglades Marina, DEE-3470  
Troy Investment Fund, DEE-5959  
Watson Oil Co., DEE-4035, DES-4035  
Aranco Oil Co., DEE-3849, DES-3849  
Brookfield Mobil, DEE-4334  
Chuck Smith Chevron, DEE-4591  
Conoco No. 524, DEE-5978  
David R. Montague, DEE-5656  
Grove Street Mobil, DEE-4402  
J&M Inc., DEE-4351  
Jack Stark, DEE-4477  
Johnson's Texaco, DEE-7394  
Kenneth Estes, DEE-5428  
Kerr McGee Service, DEE-3589  
Lay Bros., DEE-4551  
M&A Arco, DEE-6051  
Main Street Mobil, DEE-7404  
Nova Road Motor Sales, DEE-3298  
Pyramid Oil Co., DEE-3027, DST-3027  
Quest Pet. Co., Inc., DEE-3695, DES-3695  
Showboat Ind. Ser., DEE-5302  
Siggman Oil, DEE-3276  
Southwest Oil Co. of San Antonio, Inc., DEE-5313, DES-5313  
St. Romain Oil Co., DEE-3486, DST-3486  
Stidham Tire Co., DEE-5465  
Stone & Drachman Texaco, DEE-6271  
Tate Service Center, DEE-3553  
Tri-County Oil Co., DEE-5395  
Vaughn's Mobil, DEE-3288  
Wolford Exxon, DEE-4087  
A & M Service, DEE-5303  
Appleby's Service, DEE-6900  
Art's Exxon, DEE-4831  
Bob's Gulf, DEE-4669  
Central Dist. Co., DEE-6299  
Eversole-Jay, Inc., DEE-2299  
Fairland Kerr McGee, DEE-7144  
Garrott Oil Co., DEE-2965, DES-2965  
Hallman & Summers, DEE-2352, DES-2352  
Hampton Park Exxon, DEE-7740, DXE-7774  
Interstate Amoco, DEE-5434  
Laurel Exxon, DEE-4800  
Nat'l Assn. of Texaco Wholesalers, Inc., DEE-6543  
Natural Resources Defense Council, DFA-0421  
Ohio River Pipeline Corporation, DEE-6226  
Raymond P. Paquette, DEE-4725  
Siler Oil Co., DEE-7085  
Southland Corp., DEE-3154, DES-3154  
Texaco, Inc., DEE-0121  
Town of W. Seneca, New York, DEE-7749  
J. F. Hall Oil Co., DEE-3727  
Joe Donalds Amoco, DEE-7765  
Johnson's Garages, DEE-7708  
Logue & Patterson, Inc., DEE-7371  
Sam's Exxon, DEE-6596  
South College Chevron, DEE-7248  
Taylor Burgess Hairstyling Salon, DEE-7587  
Williams Oil Co., DEE-4003  
E-Z Shop Food Store, DEE-6197  
Edw. M. Worth, Sr., DEE-3644  
Harbour Self Service, DEE-5276  
Harry W. Ruffner & Sons Texaco, DEE-6252  
Highwoods Racquetball Club, DEE-7654  
Jackson Oil Co., DEE-3164  
Larry's Mobil, DEE-4710  
Lien Oil Co., Inc., DEE-6216  
Rachles Gasoline Co., DEE-2256  
Rex Oil Co. of Florida, DEE-2347, DST-2347  
Ripley & Fletcher, #28, DEE-5633

Robert O. Hixon, DEE—2526  
 Steil Oil Co., Inc., DEE—2444, DES—2444  
 Tellez Service, DEE—5292  
 Terry's Gulf Service, DEE—7351  
 Travis Association for the Blind, DEE—7551  
 Young Oil Co., Inc., DEE—2374, DST—2374  
 Atlantic Richfield, DEA—0576  
 Ballance Oil Co., DST—2571, DES—2571  
 Beal's Car Wash, DEE—7308  
 Bob Crawford Union 76, DEE—4112  
 Ceasar's Union 76, DEE—7217  
 Edw. I. Gorman, DEE—7557  
 Ferndale Amoco, DEE—6188  
 Gordon Pacific Supply, DEE—7547,  
 Harold Mandel (Mrs.), DEE—7545  
 Harvey Strassman, DEE—7550  
 J & R Texaco, DEE—7146

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,  
 Director, Office of Hearings and Appeals.  
 November 28, 1979.

[FR Doc. 79-37337 Filed 12-4-79; 8:45 am]  
 BILLING CODE 6450-01-M

#### Objection to Proposed Remedial Orders Filed; Week of November 5, 1979 Through November 9, 1979

Notice is hereby given that during the week of November 5, 1979 through November 9, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before December 28, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before January 4, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Dated: November 29, 1979.

Melvin Goldstein,  
 Director, Office of Hearings and Appeals.

#### Proposed Remedial Orders

*American Marina Development Corporation, Addison, Pa., BRO-0106, motor gasoline*

On November 5, 1979, American Marina Development Corporation, Yough Lake Marina, RDI Box 156A, Addison, Pennsylvania, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Northeast District Office of Enforcement issued to the firm on September 27, 1979. In the PRO the Northeast District found that during the period August 1, 1979 through September 28, 1979, the firm engaged in motor gasoline pricing, posting, record keeping and related violations. According to the PRO the American Marina violations resulted in \$14,680.00 of overcharges.

*Gulf Oil Corp., Houston, Tex., BRO-0116, covered products*

On November 7, 1979, Gulf Oil Corporation, P.O. Box 3725, Houston, Texas, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Northeast District Office of Enforcement issued to the firm on July 25, 1979. In the PRO the Northeast District found that during the period December 1, 1973 to December 31, 1974 (or until Gulf came into compliance with DOE regulations), Gulf increased its product costs above those levels allowed by DOE regulations. According to the PRO the Gulf violation created an accumulation of carry over costs due to the understatement of cost recoveries for this period in the amount of \$2,951,451.

*Haines Gulf, Inwood, W. Va., BRO-0123, motor gasoline*

On November 9, 1979, Haines' Gulf I-81 & Rt. 51 East, Inwood, West Virginia, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Northeast District Office of Enforcement issued to the firm on October 10, 1979. In the PRO the Northeast District found that during the period August 1, 1979 to September 28, 1979 the firm's price for motor gasoline exceeded the maximum allowable limits. According to the PRO the Haines Gulf violation resulted in \$3,788.98 of overcharges.

*Okmar Oil Co., Marietta, Oh., BRO-0119, crude oil*

On November 8, 1979, the Okmar Oil Company (Okmar), P.O. Box 548, Marietta, Ohio, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Central District Office of Enforcement issued to the firm on September 28, 1979. In the PRO the Central Enforcement District found that during the period November 1973 to December 1975, Okmar erroneously characterized the Huey Ranch property in Morgan County, Colorado as a stripper well lease, as that term was defined at 6 CFR 150.54(s) and at 10 CFR 210.32. According to the PRO the Okmar Oil Co. violation resulted in \$164,738.25 of overcharges.

*Universal, Inc., Luling, Tex., BRO-0105, propane*

On November 5, 1979, Universal, Inc., P.O. Box 551, Luling, Texas 78648, filed a Notice of

Objection to a Proposed Remedial Order which the DOE Region VI Office of Enforcement issued to the firm on September 27, 1979. In the Proposed Remedial Order the Region VI Office found that during the period July 1, 1973 through August 7, 1974, Universal, Inc. sold propane to various firms at prices in excess of those permissible under 6 CFR 140.10, 6 CFR 150.359 and 10 CFR 212.93. According to the Proposed Remedial Order, the Universal, Inc. violation resulted in overcharges of \$324,401.00.

[FR Doc. 79-37333 Filed 12-4-79; 8:45 am]

BILLING CODE 6450-01-M

#### Objection to Proposed Remedial Orders Filed

Notice is hereby given that on October 24, 1979 the Notice of Objection to the Proposed Remedial Order listed in the Appendix to this notice was filed with the Office of Hearings and Appeals of the Department of Energy.

On or before December 28, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Order described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before January 4, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

November 28, 1979.

Melvin Goldstein,  
 Director, Office of Hearings and Appeals

*Lenny's Sunoco, Buffalo, N.Y., BRO-0060*

On October 24, 1979, Lenny's Sunoco, 1270 Jefferson, Buffalo, New York 14208 filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on October 8, 1979.

In the PRO the Northeast District found that during August 1, 1979 to October 2, 1979 the firm's price for motor gasoline exceeded the maximum allowable limits.

According to the PRO the Lenny's Sunoco violation resulted in \$1,490.00 of overcharges.

[FR Doc. 79-37334 Filed 12-4-79; 8:45 am]

BILLING CODE 6450-01-M



### Objection to Proposed Remedial Order Filed; Week of September 10 Through September 14, 1979

Notice is hereby given that during the week of September 10 through September 14, 1979, the Notice of Objection to Proposed Remedial Order listed in the Appendix to this notice was filed with the Office of Hearings and Appeals of the Department of Energy.

On or before December 26, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Order described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before January 4, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

November 28, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

*Davis & Forbes, Hebbronville, Tex., DRO-0375, crude oil*

On September 11, 1979, Davis & Forbes, P.O. Box 354, Hebbronville, Texas 78361 filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on August 27, 1979.

In the PRO the Southwest District found that during the period December 1, 1973 through April 30, 1978, Davis and Forbes sold production from the Duval County Ranch Co. Lease #01896 at stripper well lease prices in violation of Department of Energy price regulations.

According to the PRO the Davis & Forbes violation resulted in \$599,382.43 of overcharges.

[FR Doc. 79-37335 Filed 12-4-79; 8:45 am]

BILLING CODE 6450-01-M

### Objection to Proposed Remedial Orders Filed; Week of October 29, 1979 Through November 2, 1979

Notice is hereby given that during the week of October 29, through November 2, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before December 26, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before January 4, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed request to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Dated: November 28, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

*Cities Service Co., Tulsa Okla., BRO-0094*

On October 31, 1979, Cities Service Company, Box 300, Tulsa, Oklahoma 74102 filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel, Southwest Refiner District, Tulsa Branch issued to the firm on August 21, 1979. In the PRO the Southwest Refiner District found that subsequent to June 4, 1979, Cities Service Company had failed to comply with its base period supply obligation to E.L. Morgan Company, Inc. Therefore, the PRO ordered Cities Service Company to bring itself into compliance with the applicable regulations by immediately assuming the motor gasoline supply obligations of all of E.L. Morgan Company, Inc.'s base period suppliers of motor gasoline.

*Cool Fuel, Inc. Paramount, Calif., BRO-0076*

On October 29, 1979, Cool Fuel Incorporated, 600 E. Alondra Blvd., Paramount, Calif. 90723, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on September 28, 1979. In the PRO the Western District found that during the period October 1, 1973 to March 31, 1976, Cool Fuel Incorporated violated 10 CFR, Part 212 by selling fuel oil at prices above the maximum selling prices permitted by the regulations. Accordingly to the PRO the Cool Fuel Incorporated violation resulted in \$288,338.96 of overcharges.

*Malcolm E. Goldsby Houston, Tex., BRO-0097*

On November 1, 1979, Malcolm E. Goldsby Exxon, 9201 Dady Freeway, Houston, Texas 77024, filed a Notice of Objection to a Proposed Remedial Order which the DOE Region IV District Office of Enforcement issued to the firm on September 21, 1979. In the PRO the Region VI District found that during September 1, through September 20 the prices charged by the firm for motor gasoline exceeded the maximum price

allowed by regulation. Accordingly to the PRO the Malcolm E. Goldsby Exxon violation resulted in \$48.55 of overcharges.

*Vic & Lou's Union, San Francisco, Calif., BRO-0080*

On October 30, 1979, Vic & Lou's Union located in San Francisco, California filed a Notice of Objection to a Proposed Remedial Order which the DOE Region IX District Office of Enforcement issued to the firm on October 3, 1979. In the PRO the Region IX District found that during the period August 2, 1979 to September 20, 1979, Vic & Lou's Union had failed to maintain required records in accordance with 10 CFR Sections 210.92 and 210.95 and that the firm had charged for services by means of a fee computed on a cents per gallon basis. Accordingly to the PRO, Vic & Lou's violation resulted in \$3,151.49 of overcharges.

*Imperial Refineries Corp., St. Louis, Mo., motor gasoline, BRO-0093*

On October 31, 1979, Imperial Refineries Corporation, P.O. Box 8440, St. Louis, Missouri 64132, filed a Notice of Objection to a Proposed Remedial Order that the Department of Energy's Central District Office of Enforcement issued to the firm on September 27, 1979. In the Proposed Remedial Order it was found that during the period October 1, 1973 through June 30, 1974 the firm committed pricing violations of \$852,936.69 in connection with the sale of motor gasoline, No. 1 fuel oil, and propane in the state of Missouri.

[FR Doc. 79-37336 Filed 12-4-79; 8:45 am]

BILLING CODE 6450-01-M

### FEDERAL MARITIME COMMISSION

[Docket No. 79-97]

#### Quality Food Corp. v. Tropical Shipping Co., Ltd. Filing of Complaint

Notice is given that a complaint filed by Quality Food Corporation against Tropical Shipping Co., Ltd. was served November 28, 1979. The complaint alleges that respondent has cancelled bookings and denied containers to complainant while complainant's competitors have continued to receive good service in violation of 46 U.S.C. 812 and 815 (sections 14 and 16 of the Shipping Act, 1916).

Hearing in this matter, if any is held, shall commence on or before May 28, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-

examination are necessary for the development of an adequate record.

Francis C. Hurney,  
Secretary.

[FR Doc. 79-37329 Filed 12-4-79; 8:45 am]

BILLING CODE 6730-01-M

## GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 39; Federal  
Procurement]

### Teleprocessing Services Program Handbook

November 20, 1979.

1. *Purpose.* This bulletin announces the availability of the revised GSA Handbook, Teleprocessing Services Program (FPR 1-4.12), October 1979, to replace the edition dated October 1978.

2. *Expiration date.* This bulletin will remain in effect until canceled or superseded.

3. *General.* This handbook informs Federal Government agencies of the procedures to be observed in acquiring commercial teleprocessing (remote computing) services within the teleprocessing services program. It encompasses procurements using the schedule contracts and the basic agreement.

4. *Availability.* Limited copies of the handbook are available without charge to all Federal agencies. Requests for copies should be submitted in writing to the General Services Administration (CDR), Washington, DC 20405, or to any of the GSA regional Agency Services Coordination Divisions.

5. *Cancellation.* GSA Handbook, Teleprocessing Services Program (FPMR 101-36), October 1978 edition, is canceled.

Gerald McBride,  
Assistant Administrator for Acquisition  
Policy.

[FR Doc. 79-37387 Filed 12-4-79; 8:45 am]

BILLING CODE 6820-61-M

### National Archives and Records Service

#### Archives Advisory Council; Meeting

Notice is hereby given that the National Archives Advisory Council will meet at the time and place indicated below. Anyone interested in attending, or who wishes additional information, should contact the person shown below.

National Archives Advisory Council

Meeting dates: December 20 and 21;

December 20: 3:00 p.m.-6:30 p.m.; December 21: 9:00 a.m.—adjournment.

Place: Room 105, National Archives and Records Service, 8th and Pennsylvania Avenue, N.W., Washington, D.C. 20408.

Agenda: Advisory Council's role and operations; NARS-GSA relations; Presidential libraries.

For further information contact: Robert Brookhart, General Services Administration (NS), Washington, D.C. 20408 (202-523-3616).

Issued in Washington, D.C. on November 27, 1979.

James E. O'Neill,

Acting Archivist of the United States.

[FR Doc. 79-37556 Filed 12-4-79; 9:29 am]

BILLING CODE 6820-26-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of Education

#### Ethnic Heritage Studies Program; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Ethnic Heritage Studies Program.

Authority for this program is contained in Part E of Title IX of Pub. L. 95-561.

(20 U.S.C. 3361-3365)

This program issues awards to public and private nonprofit educational agencies, institutions, and organizations.

The purpose of the awards is to provide assistance in planning, developing, establishing, and operating ethnic heritage studies programs.

*Closing date for transmittal of applications:* An application for a grant must be mailed or hand delivered by March 5, 1980.

*Applications delivered by mail:* An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.549, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following

as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

*Applications delivered by hand:* An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

*Program information:* Applications may address any or all of the authorized activities contained in § 184.11 of the proposed program regulations that were published as a notice of proposed rulemaking on June 22, 1979 (44 FR 36908). Applicants are encouraged to limit their request to \$60,000 or less.

In applying the need criterion set out in § 184.31(b)(1) of the proposed regulations, the Commissioner will take into consideration whether the need expressed has been met by projects funded in previous years. The normal period for awards will be one year.

*Preapplications:* Preapplications will not be required for fiscal year 1980 funding consideration.

*Available funds:* It is expected that approximately \$3,000,000 will be available for the Ethnic Heritage Studies Program in FY 1980. It is estimated that these funds could support approximately 60 projects.

These estimates, however, do not bind the U.S. Office of Education to specific numbers of grants or to the amount of any grant.

*Application forms:* Application forms and program information packages are expected to be ready for mailing no later than December 28, 1979. They may be obtained by writing to the Ethnic Heritage Studies Program, Bureau of School Improvement (Room 3928, ROB #3), U.S. Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the

regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 25 pages in length. The Commissioner further urges that applicants not submit information that is not requested. Compliance with this suggestion should enhance the efficiency and objectivity of the analysis and evaluation of the applications.

**Applicable regulations:** Regulations applicable to this program include the following:

(a) Regulations governing the Ethnic Heritage Studies Program (45 CFR Part 184).

These regulations were published as a notice of proposed rulemaking on June 22, 1979 (44 FR 36908). Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

The EDGAR regulations were published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When they are published as final regulations and become effective, they will supersede the General Provisions for Office of Education Programs (the current 45 CFR Parts 100a through 100d) and will govern awards under this program.

If substantive changes are made in the final regulations governing this program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

**Further information:** For further information, contact the Ethnic Heritage Studies Program, Bureau of School Improvement, U.S. Office of Education (Room 3928, ROB #3), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202) 245-9506.

(20 U.S.C. 3361-3368)

(Catalog of Federal Domestic Assistance Number 13.549; Ethnic Heritage Studies Program)

Dated: November 28, 1979.

John Ellis,

*Executive Deputy Commissioner for Educational Programs.*

[FR Doc. 79-37323 Filed 12-4-79; 8:45 am]

BILLING CODE 4110-02-M

## Office of the Assistant Secretary for Education

### Advisory Panel on Financing Elementary and Secondary Education; Meeting

**AGENCY:** Advisory Panel on Financing Elementary and Secondary Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Panel on Financing Elementary and Secondary Education. It also describes the functions of the Panel. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

**DATE:** December 17 and December 18, 1979, 9:00 a.m. to 5:00 p.m.

**ADDRESS:** 400 Maryland Avenue, SW., Washington, D.C., room 3000.

**FOR FURTHER INFORMATION CONTACT:** Dr. George B. Lane, Acting Executive Director, Advisory Panel on Financing Elementary and Secondary Education, Room 313-H, 200 Independence Avenue, SW., Washington, D.C. 20202 (202-245-8220).

**SUPPLEMENTARY INFORMATION:** The Advisory Panel on Financing Elementary and Secondary Education is established under section 1203, Title XII of the Education Amendments of 1978 (Pub. L. 95-561). The Panel is directed to provide the Secretary and the Congress with periodic advice and counsel concerning public policies on raising and distributing revenues to support elementary and secondary education. The views and recommendations of the Advisory Panel shall provide periodic advice to the Secretary concerning the conduct of studies authorized by section 1203 and make interim reports to the President and the Congress in 1980, 1981, and 1982 on the results of the studies conducted. The Advisory Panel shall also provide comments on the Secretary's annual reports and such additional recommendations for legislation or other appropriate action to the Congress no later than sixty days after submission of such reports.

The meeting of the Advisory Panel will be open to the public.

The proposed agenda includes: (1) Report of the Subcommittees on Budget, Calendar, and Draft Study. (2) Review of Subcommittee Reports and action on related organizational business.

Records shall be kept of all Advisory Panel proceedings and shall be available for public inspection at the

Office of the Assistant Secretary for Education, 200 Independence Avenue, SW., Room 313-H, Washington, D.C., 20202.

Signed at Washington, D.C. on November 30, 1979.

George B. Lane,

*Acting Executive Director, Advisory Panel on Financing Elementary and Secondary Education.*

[FR Doc. 79-37319 Filed 12-4-79; 8:45 am]

BILLING CODE 4110-89-M

## Indian Definition Study

**AGENCY:** Office of Education, HEW.

**ACTION:** Notice of Regional Hearings on the Mandated Study of the Definition of Indian as Contained in the Indian Education Act.

**SUMMARY:** Regional hearings will be held to solicit input from American Indians relevant to the study of the definition of Indian being done by the Office of the Assistant Secretary for Education as mandated by Congress.

**DATES:** Regional hearings will be held on the following dates. Times for these hearings are 9 a.m. to 12 noon and 1 p.m. to 5 p.m.

January 4, 1980, Raleigh, North Carolina.

January 7, 1980, Syracuse, New York; Tallahassee, Florida.

January 9, 1980, Lansing, Michigan;

Oklahoma City, Oklahoma.

January 11, 1980, Cass Lake, Minnesota;

Albuquerque, New Mexico.

January 14, 1980, Crow Agency, Montana;

Window Rock, Arizona.

January 16, 1980, Bell Garden, California;

Seattle, Washington.

January 18, 1980, Anchorage, Alaska.

February 6, 1980, Fairbanks, Alaska.

**ADDRESSES:** If an Indian tribe, organization or group does not wish to appear at a hearing, it may submit written testimony postmarked no later than February 8, 1980, following the described format, either to the appropriate Regional Office or to: Dr. Abdul G. Kahn, Office of the Assistant Secretary for Education (Policy Development), Room 317-H, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20202.

The regional hearings will be held in the following locations:

Raleigh, NC, Department of Transportation, State Highway Building, Main Auditorium, 1 South Wilmington Street.

Syracuse, NY, Room 209, Special Program Building, Syracuse City School District, 410 East Willow Street.

Tallahassee, FL, Florida Capitol Building, Plaza Level, Governor's Conference Room, South U.S. Highway 27 and Monroe Street.

Lansing, MI, Baker-Olin Building, Rooms-Manty B-C-D, 3423 North Logan Street.

Cass Lake, MN, Facilities Center, Tribal Chamber.  
 Oklahoma City, OK, Sequoyah Auditorium, Oliver Hodge Building, Oklahoma State Department of Education, 2500 North Lincoln Boulevard (Parking: 1 block west of building).  
 Albuquerque, NM, Indian Pueblo Cultural Center, 2401 12th Street, N.W.  
 Crow Agency, MT, Tribal Administration Building, Conference Room.  
 Window Rock, AZ, Hunter's Point Boarding School, Gymnasium, Highway 12.  
 Bell Garden, CA, John Anson Ford Park, Auditorium, 8000 Scout Avenue.  
 Anchorage, AK, Cook Inlet Native Association, Bingo Hall, 670 West Firewood Lane.  
 Fairbanks, AK, Old Main School, Adult Basic Education Center, Room 101, 8th and Cushman.

**FOR FURTHER INFORMATION CONTACT:**  
 Dr. Abdul G. Kahn, (202) 245-7982.

**FOR INFORMATION ABOUT REGIONAL HEARINGS CONTACT:** The appropriate Regional Commissioner listed below:

Region II, New York, Dr. William D. Green, (212) 264-4370. States: New Jersey, New York, Puerto Rico, Virgin Islands, Canal Zone. Mailing Address: Dr. William D. Green, Regional Commissioner for Educational Programs, 26 Federal Plaza, New York, New York 10007.  
 Region IV, Atlanta, Dr. William L. Lewis, (404) 221-2063. States: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee. Mailing Address: Dr. William L. Lewis, Regional Commissioner for Educational Programs, 101 Mariette Tower Building, Atlanta, Georgia 30323.  
 Region V, Chicago, Ms. Juliette Noone Lester, (312) 353-5315. States: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin. Mailing Address: Ms. Juliette Noone Lester, Regional Commissioner for Educational Programs, 300 South Wacker Drive, Chicago, Illinois 60606.  
 Region VI, Dallas, Mr. Edward J. Baca, (214) 767-3626. States: Arkansas, Louisiana, New Mexico, Oklahoma, Texas. Mailing Address: Mr. Edward J. Baca, Regional Commissioner for Educational Programs, 1200 Main Tower Building, Dallas, Texas 75202.  
 Region VIII, Denver, Dr. John Runkel, (303) 837-3544. States: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming. Mailing Address: Dr. John Runkel Regional Commissioner for Educational Programs, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294.  
 Region IX, San Francisco, Dr. Caroline Gillin, (415) 556-4920. States: Arizona, California, Hawaii, Nevada, American Samoa, Trust Territory of the Pacific, Guam, Wake Islands. Mailing Address: Dr. Caroline Gillin, Regional Commissioner for Educational Programs, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.  
 Region X, Seattle, Mr. Allen Apodaca, (206) 442-0460. States: Alaska, Idaho, Oregon, Washington. Mailing Address: Mr. Allen Apodaca, Regional Commissioner for

Educational Programs, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

#### SUPPLEMENTARY INFORMATION:

Congress, in Public Law 95-561, Title XI, Section 1147, directed the Assistant Secretary of Education, "in consultation with Indian Tribes, national Indian organizations, and the Secretary of the Interior," to supervise a study of the definition of Indian contained in Section 453 of the Indian Education Act. The study is to include but not be limited to—

- (1) An identification of the total number of Indian children being serviced under this title;
- (2) An identification of the number of children eligible and served under each of the four clauses of such definition in each subsection;
- (3) An evaluation of the consequences of eliminating descendants in the second degree from the terms of such definition, or of specifying a final date by which tribes, bands, or groups must be recognized, or of both;
- (4) Other options for changes in the terms of such definition and an evaluation of the consequences of such changes, together with supporting data;
- (5) Recommendations with respect to criteria for use by the Commissioner under the rulemaking authority contained in clause (4) of such subsection.

The definition, as contained in Pub. L. 93-318, the Indian Education Act is:

The term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside, or who is a descendant, in the first or second degree, of any such member or (2) is considered by the Secretary of the Interior to be an Indian for any purposes, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian."

To provide Indian tribes, bands, organizations, groups, and individuals with an opportunity to offer input to the study, especially with regard to the options for change the study will examine, the Office of the Assistant Secretary of Education has called for regional meetings to be held on the dates and at the sites listed above.

Persons interested in testifying should contact the Regional Commissioner in the Region in which they wish to testify. Notice of participation should be made no later than five working days prior to the scheduled date of the hearing. The

following information should be provided when contacting the Regional Commissioner: Name; address; telephone number during normal working hours; minimum time necessary for the presentation; and the text of the presentation if available. Those persons making presentations will be called upon in accordance with their pre-arranged schedule or if not pre-arranged in the order their names appear on the sign-in-register.

Comments and testimony at the hearings may be presented either orally or in writing or both, however, it is preferred that testimony be prepared in a written form and presented to the hearing officer at the beginning of each hearing session. Testimony should follow, as far as possible, the described format and cover all the points listed.

1. The name, address, and business and home telephone numbers of the presenter.
2. The presenter's tribal affiliation(s). (If non-federally recognized, describe the affiliation with a state recognized group or terminated tribe).
3. Is the presenter non-Indian?
4. The identity and description of the tribe or organization being presented:
  - (a) Tribe,
  - (b) Inter-tribal organization,
  - (c) Professional/technical assistance organization,
  - (d) Local Education Agency,
  - (e) Parent Committee,
  - (f) Other (please describe).
5. If representation of a Local Education Agency please give the total Indian student enrollment and the number of Indian students eligible for Title IV services.
6. A description of how the tribe/organization/group determines its membership or citizenship.
7. Provide a statement of proposed options for changes in the definition of Indian as contained in Section 453 of the Indian Education Act, with supporting statements and justifications of the option preferred.

Dated: November 29, 1979.

Mary F. Berry,  
*Assistant Secretary for Education.*

[FR Doc. 79-37322 Filed 12-4-79; 8:45 am]

BILLING CODE 4110-89-M

#### Health Resources Administration

##### National Advisory Council on Nurse Training; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body

scheduled to meet during the month of January 1980:

Name: National Advisory Council on Nurse Training, Date and Time: January 21-23, 1980, 10:30 a.m., Place: Conference Room 7-32, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782. Open: January 21, 1980, 10:30 a.m.-12:00 noon. Closed remainder of meeting.

**Purpose.** The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of 1975. The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRA.

**Agenda.** Agenda items for the open portion of the meeting include announcements; consideration of minutes of previous meeting; discussion of future meeting dates; and administrative and staff reports. The remainder of the meeting will be devoted to the review of grant applications for Federal assistance, and will therefore be closed to the public in accordance with provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Mary S. Hill, Bureau of Health Manpower, Room 3-50, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6681.

Agenda items are subject to change as priorities dictate.

Dated: November 29, 1979.

James A. Walsh,  
Associate Administrator for Operations and Management.

[FR Doc. 79-37353 Filed 12-4-79; 8:45 am]  
BILLING CODE 4110-83-M

## Public Health Service

### National Research Service Awards; Studies Respecting Biomedical and Behavioral Research Personnel; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority to the Assistant Secretary for Health on July 20, 1979 (44 FR 46318), by the Secretary of Health, Education, and Welfare, the following authorities under Title IV of the Public Health Service Act, as amended, were delegated on November 20, 1979, by the Assistant Secretary for Health to the

Administrator, Health Resources Administration, with authority for redelegation:

1. Authority under Section 472 of the Public Health Service Act, as amended (42 U.S.C. 2891-1), for National Research Service Awards, excluding the authority to prescribe regulations; and

2. Authority under Section 473 of the Public Health Service Act, as amended (42 U.S.C. 2891-2), for studies respecting biomedical and behavioral research personnel, excluding the authority to submit reports to Congress or its committees.

These authorities are authorized to be exercised insofar as they pertain to the functions assigned to be carried out within the Division of Nursing.

The June 23, 1978 delegation (43 FR 290034-29035), from the Assistant Secretary for Health to the Administrator, Health Resources Administration, as it pertains to authorities delegated under Section 472 and Section 473 of the Public Health Service Act, has been superseded.

Dated: November 20, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79-37364 Filed 12-4-79; 8:45 am]  
BILLING CODE 4110-83-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[W-69986, W-69987, W-69988, W-69989, W-69990, and W-69991]

### Wyoming; Applications

November 26, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed applications for rights-of-way to construct, operate, maintain, repair, replace and remove 4½", 6½" and 12¾" O.D. buried pipelines for the purpose of transporting natural gas across the following described public lands:

#### Sixth Principal Meridian, Wyoming

Serial No.	Pipe size	Land description
W-69986.....	4½ in.....	T. 21 N., R. 93 W., Secs. 8 and 18, Sweetwater County.
W-69987.....	4½ in.....	T. 19 N., R. 93 W., Sec. 20, Carbon County.
W-69988.....	4½ in and 6½ in.....	T. 19 N., R. 93 W., Sec. 28, T. 22 N., R. 94 W., Secs. 20 and 28, Carbon and Sweetwater Counties.

#### Sixth Principal Meridian, Wyoming—Continued

Serial No.	Pipe size	Land description
W-69989.....	4½ in and 6½ in.....	T. 19 N., R. 92 W., Sec. 18, Carbon County.
W-69990.....	4½ in and 6½ in.....	T. 18 N., R. 93 W., Secs. 8 and 14, Carbon County.
W-69991.....	6½ in and 12¾ in.....	T. 18 N., R. 91 W., Sec. 8, Carbon County.

The proposed pipelines will serve to transport natural gas from several wells to points of connection with existing pipeline facilities all within Carbon and Sweetwater Counties.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-37365 Filed 12-4-79; 8:45 am]  
BILLING CODE 4310-84-M

### [AA-6669-A Through AA-6669-J]

#### Alaska Native Claims Selections

On March 19 and October 31, 1974, Igiugig Native Corporation, for the Native village of Igiugig, filed selection applications AA-6669-A through AA-6669-J under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the Igiugig area.

The Bristol Bay Native Corporation filed regional selection application AA-8097-10 pursuant to sec. 12(c) of ANCSA on December 5, 1975 for the surface and subsurface estates of certain lands within T. 10 S., R. 40 W., Seward Meridian. Igiugig Native Corporation properly selected Secs. 17 through 20 in village selection application AA-6669-I on October 31, 1974. Departmental regulation 43 CFR 2851.4(d) states:

Village corporation selections within sections 11(a)(1) and (a)(3) areas shall be given priority over regional corporation selections for the same lands.

In view of this, regional selection application AA-8097-10 is hereby

rejected as to the following described lands:

**Seward Meridian, Alaska (Unsurveyed)**

T. 10 S., R. 40 W.

Secs. 17 to 20, inclusive, excluding the Kvichak River.

Containing approximately 857 acres.

Further action on regional selection application AA-8097-10 as to those lands not rejected herein will take place at a later date.

On November 14, 1978, the State of Alaska filed general purposes grant selection applications AA-21710, AA-21725, AA-21726, AA-21740 and AA-21741, all as amended, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)), for certain lands in the Igiugig area.

The following described lands have been properly selected by Igiugig Native Corporation. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated and unreserved* public lands in Alaska. Therefore, the following State selection applications are hereby rejected as to the following described lands:

**State Selection AA-21710**

T. 8 S., R. 39 W.,

Sec. 18, excluding Native allotment AA-6277 Parcel C and Iliamna Lake;

Secs. 17 and 20, all;

Secs. 21 and 28, excluding Iliamna Lake;

Secs. 29 and 32, all;

Sec. 33, excluding Iliamna Lake.

Containing approximately 4,250 acres.

**State Selection AA-21725**

T. 9 S., R. 37 W.,

Secs. 35 and 36, excluding Iliamna Lake.

Containing approximately 220 acres.

T. 10 S., R. 27 W.,

Sec. 1, all;

Secs. 2 and 3, excluding Iliamna Lake;

Secs. 8, 9 and 10, excluding Iliamna Lake;

Secs. 11, 15 and 16, all;

Secs. 17 and 18, excluding Iliamna Lake;

Secs. 19 and 20, all;

Secs. 27 to 32, inclusive, all.

Containing approximately 10,230 acres.

**State Selection AA-21726**

T. 9 S., R. 39 W.,

Secs. 6 and 7, excluding Iliamna Lake;

Secs. 18, 19 and 30, excluding Iliamna Lake;

Secs. 31 and 32, excluding Native allotment AA-6250 and Iliamna Lake.

Containing approximately 2,216 acres.

T. 9 S., R. 40 W.

Secs. 1, 12 and 13, all;

Secs. 24, 25 and 36, all.

Containing approximately 3,840 acres.

**State Selection AA-21740**

T. 10 S., R. 38 W.

Secs. 10 and 11, excluding Iliamna Lake;

Secs. 13 to 18, inclusive, excluding Iliamna Lake;

Secs. 19 to 30, inclusive, all.

Containing approximately 10,745 acres.

**State Selection AA-21741**

T. 10 S., R. 40 W.

Sec. 12, excluding the Kvichak River;

Sec. 13, excluding Native allotments AA-5881 Parcel III, AA-6069 Parcel A and the Kvichak River;

Secs. 14, 15 and 16, excluding the Kvichak River;

Sec. 17, excluding Native allotments AA-6277 Parcel B, AA-8059 Parcel B and the Kvichak River;

Sec. 18, excluding U.S. Survey 4961 and the Kvichak River;

Sec. 19, excluding Native allotment A-059277 and the Kvichak River;

Sec. 20, excluding Native allotments AA-5904 Parcel B, A-059277 and the Kvichak River;

Sec. 21, excluding the Kvichak River;

Sec. 22, excluding Native allotment AA-6253 and the Kvichak River;

Sec. 23, excluding the Kvichak River;

Sec. 24, excluding Native allotment AA-6069 Parcel A and the Kvichak River.

Containing approximately 4,737 acres.

Aggregating approximately 36,238 acres.

Further action on the above selection applications, as to those lands not rejected herein, will be taken at a later date.

The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands.

As to the lands described below, the applications submitted by Igiugig Native Corporation, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to sec. 12(a), aggregating approximately 65,592 acres, is considered proper for acquisition by Igiugig Native Corporation and is hereby approved for conveyance pursuant to sec. 14(a) of the Alaska Native Claims Settlement Act:

U.S. Survey No. 4756, lot 2, situated on the outlet of Iliamna Lake at Igiugig, Alaska. Containing 0.87 acre.

**Seward Meridian, Alaska (Unsurveyed)**

T. 9 S., R. 37 W.

Secs. 35 and 36, excluding Iliamna Lake.

Containing approximately 220 acres.

T. 10 S., R. 37 W.

Sec. 1, all;

Secs. 2 and 3, excluding Iliamna Lake;

Secs. 8, 9 and 10, excluding Iliamna Lake;

Secs. 11, 15 and 16, all;

Secs. 17 and 18, excluding Iliamna Lake;

Secs. 19 and 20, all;

Secs. 27 and 32, inclusive, all.

Containing approximately 10,230 acres.

T. 11 S., R. 37 W.

Secs. 5 to 8, inclusive, all;

Secs. 17 to 20, inclusive, all;

Secs. 29 and 30, excluding Native allotment A-052511;

Secs. 31 and 32, all.

Containing approximately 7,427 acres.

T. 12 S., R. 37 W.

Secs. 5 to 8, inclusive, all;

Secs. 17 to 20, inclusive, all;

Sec. 30, all.

Containing approximately 5,732 acres.

T. 10 S., R. 38 W.

Secs. 10 and 11, excluding Iliamna Lake;

Secs. 13 to 18, inclusive, excluding Iliamna Lake;

Secs. 19 to 30, inclusive, all.

Containing approximately 10,745 acres.

T. 8 S., R. 39 W.

Sec. 16, excluding Native allotment AA-6277 Parcel C and Iliamna Lake;

Secs. 17 and 20, all;

Secs. 21 and 28, excluding Iliamna Lake;

Secs. 29 and 32, all;

Sec. 33, excluding Iliamna Lake.

Containing approximately 4,250 acres.

T. 9 S., R. 39 W.

Secs. 6 and 7, excluding Iliamna Lake;

Secs. 18, 19 and 30, excluding Iliamna Lake;

Secs. 31 and 32, excluding Native allotment AA-6250 and Iliamna Lake.

Containing approximately 2,216 acres.

T. 10 S., R. 39 W.

Sec. 5, excluding U.S. Survey 4756 lot 5,

Native allotments AA-5881 Parcel I, AA-5904 Parcel C and Iliamna Lake;

Sec. 6, excluding Native allotments AA-5881 Parcel I and AA-6277 Parcel A;

Sec. 7, excluding U.S. Survey 3877 lot 2,

Native allotments AA-5881 Parcel I, AA-5904 Parcels A and D, AA-6277 Parcel A,

A-059291, Quit Claim Deed AA-31232

and the Kvichak River;

Sec. 8, excluding U.S. Survey 3877, U.S.

Survey 4756, Native allotments AA-5881

Parcel I, AA-6207, AA-6249, AA-7836

Parcel C, AA-8118, A-059278, A-059290

Parcels A and B, Quit Claim Deed AA-

31232, the Kvichak River and Iliamna

Lake;

Sec. 9, excluding Native allotments AA-

6248, AA-6249, AA-7717, A-059278 and

Iliamna Lake;

Secs. 10 to 14, inclusive, excluding Iliamna

Lake;

Sec. 15, all;

Sec. 16, excluding Native allotment AA-

7717;

Secs. 17 and 18, excluding Native allotment

AA-6252;

Secs. 19 to 36, inclusive, all.

Containing approximately 16,194 acres.

T. 9 S., R. 40 W.

Secs. 1, 12 and 13, all;

Secs. 24, 25 and 36, all.

Containing approximately 3,840 acres.

T. 10 S., R. 40 W.

Sec. 12, excluding the Kvichak River;

Sec. 13, excluding Native allotments AA-

5881 Parcel III, AA-6069 Parcel A and the

Kvichak River;

Secs. 14, 15 and 16, excluding the Kvichak

River;

Sec. 17, excluding Native allotments AA-

6277 Parcel B, AA-8059 Parcel B and the

Kvichak River;

Sec. 18, excluding U.S. Survey 4961 and the

Kvichak River;

Sec. 19, excluding Native allotment A-

059277 and the Kvichak River;

Sec. 20, excluding Native allotments AA-

5904 Parcel B, A-059277 and the Kvichak

River;

Sec. 21, excluding the Kvichak River;



Sec. 22, excluding Native allotment AA-6253 and the Kvichak River;  
 Sec. 23, excluding the Kvichak River;  
 Sec. 24, excluding Native allotment AA-6069 Parcel and the Kvichak River;  
 Containing approximately 4,737 acres.  
 Aggregating approximately 65,592 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-6669-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

**25 Foot Trail**—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

**50 Foot Trail**—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

**One Acre Site**—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 6c D9) A one (1) acre site easement upland of the ordinary high water mark in Secs. 14 and 23, T. 10 S., R. 40 W., Seward Meridian, on the island in the Kvichak River. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 11 D9) An easement for an existing and proposed access trail fifty (50) feet in width from trailhead at the southwestern end of airport property in sec. 7, T. 10 S., R. 39 W., Seward Meridian, southwesterly to public lands, that portion of the trail from the airport property to the east boundary of sec. 13,

T. 10 S., R. 40 W., is existing; that portion running southwesterly through secs. 13 and 24 to public lands is proposed. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 11a C4) An easement for a proposed access trail fifty (50) feet in width from the village of Igiugig on the right bank of Kvichak river in sec. 7, T. 10 S., R. 39 W., Seward Meridian, northwesterly to public lands. Those uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 12b D9) A one (1) acre site easement upland of the ordinary high water mark in sec. 17, T. 12 S., R. 37 W., Seward Meridian, on the right bank of Alagnak River at the outlet of Kukaklek Lake. The uses allowed are those listed above for a one (1) acre site.

e. (EIN 18a C4) An easement for a proposed access trail fifty (50) feet in width from public land in sec. 36, T. 11 S., R. 38 W., Seward Meridian, easterly to the shoreline of Kukaklek Lake in sec. 33, T. 11 S., R. 37 W., Seward Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

f. (EIN 19a C4) An easement for a proposed access trail fifty (50) feet in width from site easement EIN 19b C4 on the shore of Iliamna Lake in sec. 15, T. 10 S., R. 38 W., Seward Meridian, southerly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

g. (EIN 19b C4) A one (1) acre site easement upland of the ordinary high water mark in sec. 15, T. 10 S., R. 38 W., Seward Meridian, on the south shore of Iliamna Lake. The uses allowed are those listed above for a one (1) acre site.

The grant of lands shall be subject to:  
 1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, sec. 6(g))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights privileges and benefits thereby granted to him. Further, pursuant to sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is not provided for under existing law;

3. Airport lease, A-058405 Tract II Parcel B and Tract III, containing approximately 19.5 acres, located in secs. 7 and 8, T. 10 S., R. 39 W., Seward Meridian, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214); and

4. Requirements of sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Igiugig Native Corporation is entitled to conveyance of 69,120 acres of land selected pursuant to sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 65,592 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 3,528 acres will be conveyed at a later date.

Pursuant to sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Igiugig Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following water bodies, within the described lands, are considered to be navigable:

Iliamna Lake;  
 Kvichak River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks in the ANCHORAGE TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until January 4, 1980 to file an appeal.

3. Any party known or unknown who may claim a property interest which is

adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulation governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

Igiugig Native Corporation,  
Igiugig, Alaska 99613.  
Bristol Bay Native Corporation,  
P.O. Box 198,  
Dillingham, Alaska 99576,  
State of Alaska,  
Department of Natural Resources,  
Division of Research and Development,  
323 East Fourth Avenue,  
Anchorage, Alaska 99501.

Sue A. Wolf,  
Chief, Branch of Adjudication.

[FR Doc. 79-37370 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [AA-6682-A Through AA-6682-G]

#### Alaska Native Claims Selections

On March 5 and November 7, 1974, Newhalen Native Corporation for the Native village of Newhalen, filed selection applications AA-6682-A through AA-6682-G under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Newhalen.

On November 14, 1978, the State of Alaska filed general purposes grant selection applications AA-21637, AA-21654, AA-21655, AA-21658, AA-21677 and AA-21678, all as amended, pursuant to sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, sec. 6(b)), for certain lands in the Newhalen area.

The following described lands have been properly selected by Newhalen Native Corporation. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select vacant, unappropriated and unreserved public lands in Alaska. Therefore, the following State selection applications are hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed) State Selection AA-21637

T. 4 S., R. 33 W.

Sec. 31, all;  
Sec. 32, excluding Newhalen River.

Containing approximately 1,234 acres.

#### State Selection AA-21654

U.S. Survey No. 4975 situated at Newhalen, Alaska.

Containing 4.12 acres.

#### Seward Meridian, Alaska (Unsurveyed)

T. 5 S., R. 33 W.

Sec. 5, excluding U.S. Survey 2644 and Native allotments AA-7125 Parcel B and AA-8203;

Sec. 6, excluding Native allotment AA-8203;

Sec. 7, excluding Native allotments AA-8142 and AA-8203;

Sec. 8, excluding U.S. Survey 2644 and Native allotments AA-8142 and AA-8203;

Sec. 15, W½, excluding U.S. Survey 2644 and Native allotment AA-7559 Parcel C;

Sec. 16, excluding U.S. Survey 2644;

Sec. 17, excluding U.S. Survey 2644, Native allotment AA-8161 Parcel A and Newhalen River;

Secs. 18 and 19, excluding Newhalen River;

Sec. 20, excluding Native allotment AA-8161 Parcel A and Newhalen River;

Sec. 21, excluding U.S. Survey 4975 and Newhalen River;

Sec. 22, W½, excluding Iliamna Lake;

Sec. 27, W½, excluding Native allotment AA-6134 Parcel A, Newhalen River and Iliamna Lake;

Sec. 28, excluding Native allotments AA-6134 Parcel A, AA-6153 Parcel B,

Newhalen River and Iliamna Lake;

Secs. 29 to 32, inclusive, all;

Sec. 33, excluding Newhalen River and Iliamna Lake.

and

Those portions of U.S. Survey No. 2644, Alaska, Iliamna Air Navigation Site, within the following protracted sections:

Sec. 5;

Sec. 8, excluding Quit Claim Deed AA-8983;

Sec. 15, W½;

Sec. 17, excluding Quit Claim Deed AA-8983.

Containing approximately 8,515 acres.

T. 6 S., R. 33 W.

Secs. 4 and 5, excluding Iliamna Lake;

Sec. 6, all;

Secs. 7 and 8, excluding Iliamna Lake.

Containing approximately 1,804 acres.

#### State Selection AA-21655

T. 5 S., R. 34 W.

Sec. 1, excluding Newhalen River;

Secs. 2 and 3, all;

Secs. 7 to 11, inclusive, all;

Secs. 12 and 13, excluding Newhalen River;

Sec. 14, excluding Native allotment AA-6217;

Secs. 15 to 22, inclusive, all;

Sec. 23, excluding Native allotment AA-6217;

Secs. 24 to 36, inclusive, all.

Containing approximately 20,517 acres.

#### State Selection AA-21677

T. 6 S., R. 34 W.

Secs. 1 to 6, inclusive, all;

Sec. 7, excluding Native allotment AA-6291 and Iliamna Lake;

Sec. 8, excluding Native allotments AA-6291, A-052452 and Iliamna Lake;

Sec. 9, excluding Native allotments A-052452, AA-7126 and Iliamna Lake;

Sec. 10, excluding Native allotment AA-7126;

Secs. 11 to 15, inclusive, excluding Iliamna Lake;

Sec. 16, excluding Native allotment A-052452 and Iliamna Lake;

Secs. 17 and 18, excluding Iliamna Lake;

Secs. 23 and 24, excluding Iliamna Lake.

Containing approximately 7,663 acres.

#### State Selection AA-21656

T. 5 S., R. 35 W.

Secs. 12, 13, 14 and 15, all;

Secs. 22 to 26, inclusive, all;

Sec. 27, excluding Native allotment AA-6160;

Secs. 28 to 36, inclusive, all.

Containing approximately 11,938 acres.

#### State Selection AA-21678

T. 6 S., R. 35 W.

Secs. 1 to 9, inclusive, all;

Secs. 10 and 11, excluding Native allotment A-052447;

Sec. 12, all;

Sec. 13, excluding Iliamna Lake;

Sec. 14, excluding Native allotments A-052447, AA-6130, AA-6290 and Iliamna Lake;

Sec. 15, excluding Native allotments A-052447 and AA-6130;

Secs. 16, 17 and 18, all;

Secs. 19, 20 and 21, excluding Iliamna Lake;

Sec. 22, excluding Native allotments AA-6130, AA-6292 and Iliamna Lake;

Sec. 23, excluding Native allotments AA-6130, AA-6290, AA-6292 and Iliamna Lake;

Sec. 30, excluding Iliamna Lake.

Containing approximately 12,461 acres.

Aggregating approximately 64,136 acres.

The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands. Further action on the subject State selection applications as to those lands not rejected herein will be taken at a later date.

As to the lands described below, the applications submitted by Newhalen Native Corporation, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 64,136 acres, is considered proper for acquisition by Newhalen Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey No. 4975 situated at Newhalen, Alaska.

Containing 4.12 acres.

## Seward Meridian, Alaska (Unsurveyed)

## T. 4 S., R. 33 W.

Sec. 31, all;  
Sec. 32, excluding Newhalen River.  
Containing approximately 1,234 acres.

## T. 5 S., R. 33 W.,

Sec. 5, excluding U.S. Survey 2644 and Native allotments AA-7125 Parcel B and AA-8203;  
Sec. 6, excluding Native allotment AA-8203; sec. 7, excluding Native allotments AA-8142 and AA-8203;  
Secs. 8, excluding U.S. Survey 2644 and Native allotment AA-8142 and AA-8203;  
Sec. 15,  $W\frac{1}{2}$ , excluding U.S. Survey 2644 and Native allotment AA-7559 Parcel C;  
Sec. 16, excluding U.S. Survey 2644;  
Secs. 17, excluding U.S. Survey 2644, Native allotment AA-8161 Parcel A and Newhalen River;  
Secs. 18 and 19, excluding Newhalen River;  
Sec. 20, excluding Native allotment AA-8161 Parcel A and Newhalen River;  
Sec. 21, excluding U.S. Survey 4975 and Newhalen River;  
Sec. 22,  $W\frac{1}{2}$ , excluding Iliamna Lake;  
Sec. 27,  $W\frac{1}{2}$ , excluding Native allotment AA-6134 Parcel A, Newhalen River and Iliamna Lake;  
Sec. 28, excluding Native allotments AA-6134 Parcel A, AA-6153 Parcel B, Newhalen River and Iliamna Lake;  
Secs. 29 to 32, inclusive, all;  
Sec. 33, excluding Newhalen River and Iliamna Lake.

and

Those portions of U.S. Survey No. 2644, Alaska, Iliamna Air Navigation Site, within the following protracted sections:

Sec. 5;  
Sec. 8, excluding Quit claim Deed AA-8983;  
Sec. 15,  $W\frac{1}{2}$ ;  
Sec. 17, excluding Quit Claim Deed AA-8983.

Containing approximately 8,515 acres.

## T. 6 S., R. 33 W.,

Secs. 4 and 5, excluding Iliamna Lake;  
Sec. 6, all;  
Secs. 7 and 8, excluding Iliamna Lake.  
Containing approximately 1,804 acres.

## T. 5 S., R. 34 W.

Sec. 1, excluding Newhalen River;  
Secs. 2 and 3, all;  
Secs. 7 to 11, inclusive, all;  
Secs. 12 and 13, excluding Newhalen River;  
Sec. 14, excluding Native allotment AA-6217;  
Secs. 15 to 22, inclusive, all;  
Sec. 23, excluding Native allotment AA-6217;  
Secs. 24 to 36, inclusive, all.  
Containing approximately 20,517 acres.

## T. 6 S., R. 34 W.

Secs. 1 to 6, inclusive, all;  
Sec. 7, excluding Native allotment AA-6291 and Iliamna Lake;  
Sec. 8, excluding Native allotments AA-6291, A-052452 and Iliamna Lake;  
Sec. 9, excluding Native allotments A-052452, AA-7126 and Iliamna Lake;  
Sec. 10, excluding Native allotment AA-7126;  
Secs. 11 to 15, inclusive, excluding Iliamna Lake;  
Sec. 16, excluding Native allotment A-052452 and Iliamna Lake;  
Secs. 17 and 18, excluding Iliamna Lake;

Secs. 23 and 24, excluding Iliamna Lake.

Containing approximately 7,663 acres.

## T. 5 S., R. 35 W.

Secs. 12, 13, 14 and 15, all;  
Secs. 22 to 28, inclusive, all;  
Sec. 27, excluding Native allotment AA-8160;  
Secs. 28 to 36, inclusive, all;  
Containing approximately 11,938 acres.  
T. 6 S., R. 35 W.  
Secs. 1 to 9, inclusive, all;  
Secs. 10 and 11, excluding Native allotment A-052447;  
Sec. 12, all;  
Sec. 13, excluding Iliamna Lake;  
Sec. 14, excluding Native allotments A-052447, AA-6130, AA-6290 and Iliamna Lake;  
Sec. 15, excluding Native allotments A-052447 and AA-6130;  
Secs. 16, 17 and 18, all;  
Secs. 19, 20 and 21, excluding Iliamna Lake;  
Sec. 22, excluding Native allotments AA-6130, AA-6292 and Iliamna Lake;  
Sec. 23, excluding Native allotments AA-6130, AA-6290, AA-6292 and Iliamna Lake;  
Sec. 30, excluding Iliamna Lake.  
Containing approximately 12,461 acres.  
Aggregating approximately 64,136 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-6682-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation, the following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.  
**25 Foot Trail**—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

**60 Foot Road**—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

**One Acre Site**—The uses allowed for a site easement are: vehicle parking

(e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

**50 Foot Proposed Powerline**—The uses allowed are those activities associated with the construction, operation and maintenance of the powerline facility. All powerlines in this category must be proposed for construction within a five year period. If the powerline is not constructed, the easement will be eliminated. If, after the powerline has been constructed, a lesser width is sufficient to accommodate the powerline, the easement shall be reduced to a twenty-five (25) foot wide easement.

a. (EIN 3e D9) A one (1) acre site easement upland of the ordinary high water mark in sec. 13, T. 6 S., R. 35 W., Seward Meridian, on the north shore of Iliamna Lake. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 4a C4) A one (1) acre site easement upland of the ordinary high water mark in secs. 17 and/or 20, T. 5 S., R. 33 W., Seward Meridian, on the left bank of Newhalen River at the end of road EIN 4b D9. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 4b D9) An easement sixty (60) feet in width for an existing road from the Iliamna Airport in sec. 17, T. 5 S., R. 33 W., Seward Meridian, southerly to site EIN 4a C4. The uses allowed are those listed above for a sixty (60) foot wide road easement.

d. (EIN 4c D9, E) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 4a C4 in secs. 17 and/or 20, T. 5 S., R. 33 W., Seward Meridian, southerly to the left bank of Newhalen River. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 5b, D1, D9, L) A one (1) acre site easement upland of the ordinary high water mark in sec. 28, T. 5 S., R. 33 W., Seward Meridian, covering a small peninsula at the mouth of the Newhalen River. The uses allowed are those listed above for a one (1) acre site.

f. (EIN 21 E) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 4a C4 along the left bank of Newhalen River in secs. 17 and/or 20, T. 5 S., R. 33 W., Seward Meridian, westerly around the rapids. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 23 C5) An easement fifty (50) feet in width, twenty-five (25) feet on each side of the centerline, for a proposed powerline from the village of Newhalen in sec. 28, T. 5 S., R. 33 W., Seward Meridian, northeasterly, through

the Newhalen selection boundary in sec. 15, T. 5 S., R. 33 W., Seward Meridian. The uses allowed are those listed above for a fifty (50) foot wide proposed powerline.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the Official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601; 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. A right-of-way, AA-8791, located in secs. 15, 21, 22 and 28, T. 5 S., R. 33 W., Seward Meridian, with varying widths of thirty (30) feet to one hundred fifty (150) feet each side of the centerline for a Federal Aid Secondary Highway, issued to the State of Alaska, Department of Highways (now the Department of Transportation and Public Facilities), under the provisions of the Act of August 27, 1958 (72 Stat. 885; 23 U.S.C. 317); and

4. Requirements of sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Newhalen Native Corporation is entitled to conveyance of 69,120 acres of land selected pursuant to sec. 12(a) of the Alaska Native Claims Settlement Act. To date, 64,136 acres of this entitlement have been approved for conveyance. The remaining 4,984 acres will be conveyed at a later date.

Pursuant to sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to the Bristol Bay Native Corporation when conveyance is granted to Newhalen Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water bodies are considered to be navigable:

Iliamna Lake  
Newhalen River

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until November 4, 1980 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.  
Newhalen Native Corporation, Newhalen, Alaska 99606.  
Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Sue A. Wolf,  
Chief, Branch of Adjudication.

[FR Doc. 79-37389 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-84-M

#### Wilderness Inventory Decision on the Prairie Canyon Unit in Utah and Colorado

AGENCY: Bureau of Land Management, Interior.

#### ACTION: Notice.

**SUMMARY:** Pursuant to authority delegated by the Director, Bureau of Land Management, it has been determined that the public lands administered by BLM within the confines of the Prairie Canyon inventory unit within Utah and Colorado have been inventoried according to the provisions of Section 201(a) and 603 of the Federal Land Policy and Management Act of 1976 and Section 2(c) of the Wilderness Act of 1964. The appropriate inventory and associated public comment period have been conducted on approximately 27,900 acres and it has been determined that the unit lacks the wilderness characteristics as described in the Wilderness Act.

The final decision announced herein is scheduled to become effective on January 4, 1980, or 30 days after publication of this notice. At that time, the unit will no longer be subject to the management restrictions imposed by Section 603 of Pub. L. 94-579. For purposes of this decision, the area is considered separable from every other area under wilderness inventory. Should any amendment to this decision be made by the Utah BLM State Director, as a result of new information received following this publication, that amendment will be formally published in the Federal Register and will not become effective until 30 days following such publication. This 30-day extension will apply only to the amendment and not the original decision.

Persons wishing to protest the decision announced herein shall have 30 days from this publication in the Federal Register to file a written protest which must specify the area to which the protest is directed, must include a clear and concise statement of reasons for the protest, and must furnish supporting data to the Utah State Director, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111. The protest must be received in that office before or on the termination date. The Utah BLM State Director, will render a written decision on any such protest so received.

Any person adversely affected by the State Director's decision on written protests may appeal the decision by following normal administrative procedures applicable to formal appeals to the Interior Board of Land Appeals, which are published in 43 CFR Part 4.

**FOR FURTHER INFORMATION CONTACT:**  
William Greene, Moab BLM District Office, 801-259-6111.

Dated: November 28, 1979.  
Gary J. Wicks,  
*State Director, Utah.*  
[FR Doc. 79-37444 Filed 12-4-79; 8:45 am]  
BILLING CODE 4310-84-M

areas included within that boundary shall be administered in accordance with the laws and regulations applicable to the national historic site.

Dated: November 27, 1979.  
James A. Joseph,  
*Secretary of the Interior.*  
BILLING CODE 4310-70-M

#### Shoshone District Grazing Advisory Board Meeting

November 26, 1979.

Notice is hereby given that the Shoshone District Grazing Advisory Board of the Bureau of Land Management will meet on Wednesday, January 16, 1980, at 9:00 a.m. in the conference room of the District Office, 400 West F Street, Shoshone, Idaho. The purpose of the meeting will be to organize the Board, review and receive recommendations on the proposed grazing system within the Shoshone Environmental Statement Area, and disburse Advisory Board funds for fiscal year 1980.

The public is invited to attend and make written or oral statements which should not exceed 15 minutes in length. Requests to present these statements should be made to the official listed below at least five days prior to the meeting.

Further information concerning this meeting may be obtained from the Shoshone District Manager, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352, telephone (208) 886-2208. Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Shoshone District Office, Shoshone, Idaho.

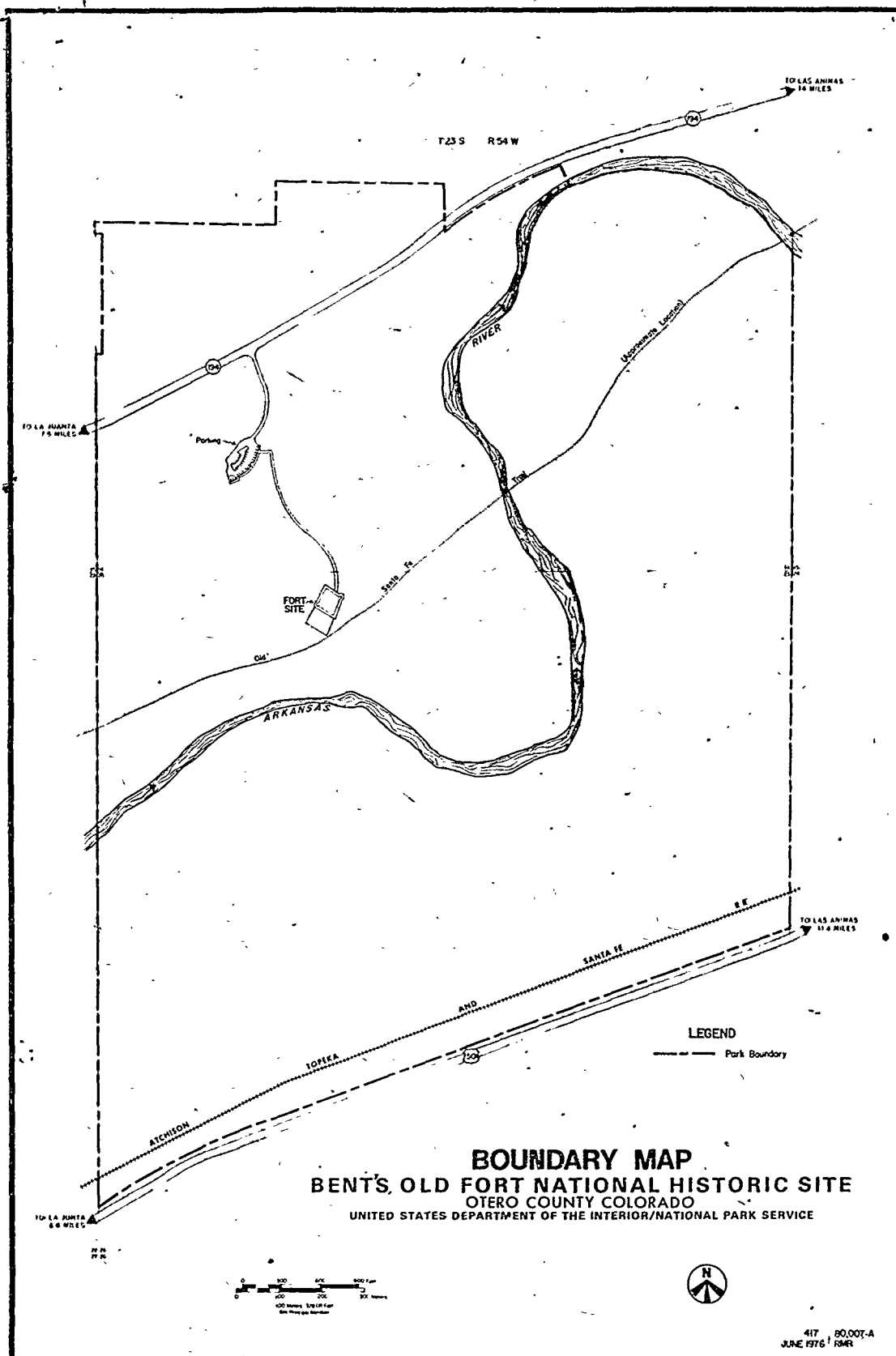
Dated: November 26, 1979.  
Terrance M. Costello,  
*Acting District Manager.*  
[FR Doc. 79-37368 Filed 12-4-79; 8:45 am]  
BILLING CODE 4310-84-M

#### National Park Service

##### Bent's Old Fort National Historic Site; Boundary Revision

Notice is hereby given that the boundary of Bent's Old Fort National Historic Site, established by the Act of June 3, 1960, Pub. L. 86-487 (74 Stat. 155), is adjusted to include approximately 622 additional acres pursuant to the authority contained in section 301 of Pub. L. 95-625 (92 Stat. 3467), which provides for the inclusion of approximately 622 acres.

The revised boundary is depicted on the accompanying map entitled "Boundary Map, Bent's Old Fort National Historic Site (Drawing 417-80,007-A), dated June 1976." All new





**Chesapeake and Ohio Canal National  
Historical Park, Allegany and  
Washington Counties, Md., Morgan  
County, W. Va.; Publication of a  
Boundary Map**

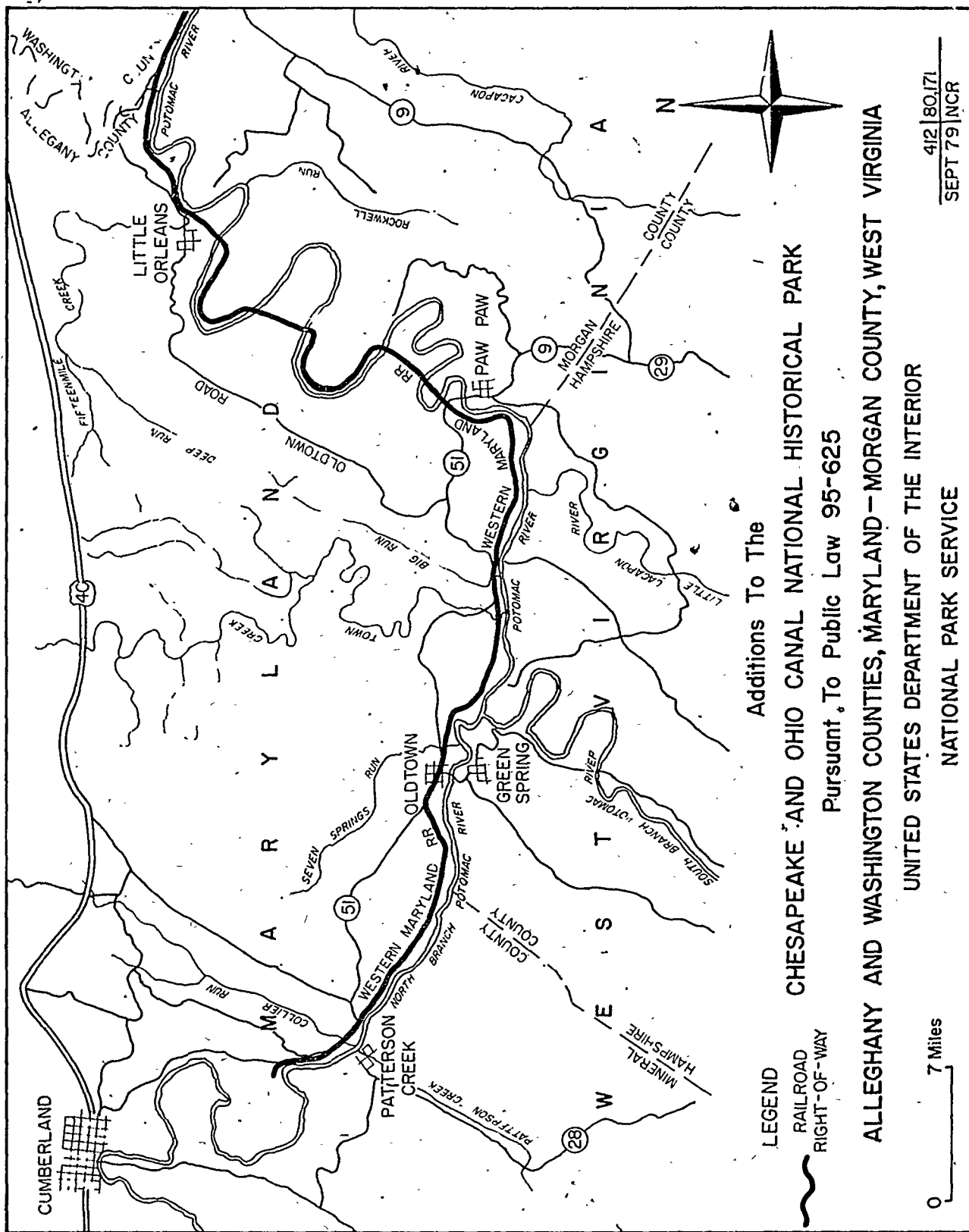
There is hereby published a boundary map which details the land which is being added to the Chesapeake and Ohio Canal National Historical Park, pursuant to Pub. L. 95-625, Section 320. Comments on the map should be addressed to the Office of Land Use Coordination, National Park Service, 1100 Ohio Drive, SW., Washington, D.C. 20242.

Dated: November 23, 1979.

Edward S. Peetz,

*Regional Director, National Capital Region.*

BILLING CODE 4310-70-M



**Monocacy National Battlefield,  
Frederick County, Md.; Publication of a  
Boundary Map**

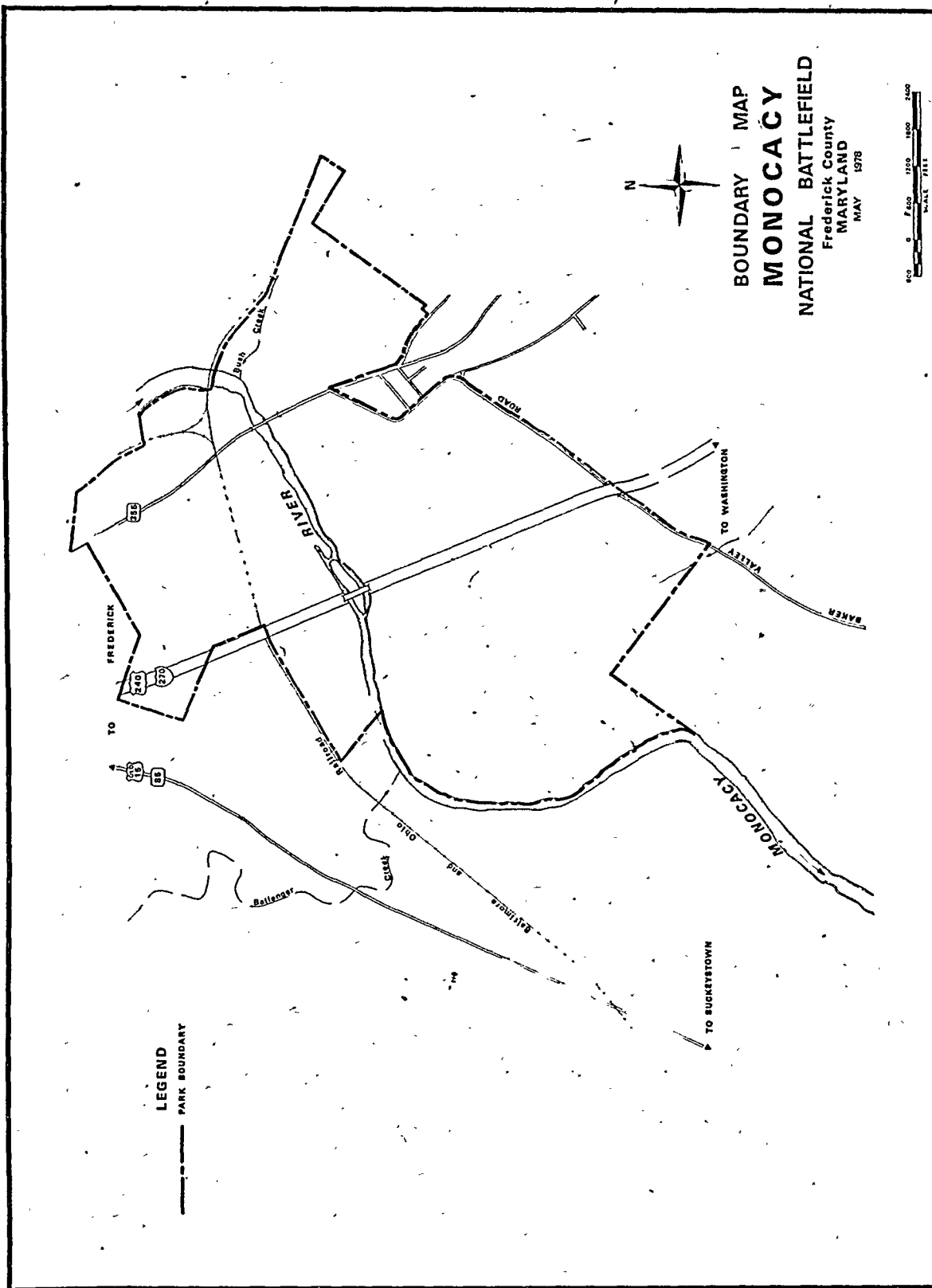
There is hereby published a boundary map which details the land which is being added to the Monocacy National Battlefield, pursuant to Pub. L. 95-625, section 301. Comments on the map should be addressed to the Office of Land Use Coordination, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, D.C. 20242.

Dated: November 23, 1979.

Edward S. Peetz,

*Acting Regional Director, National Capital  
Region.*

BILLING CODE 4310-70-M



**Theodore Roosevelt National Memorial Park; Boundary Revision and Name Change**

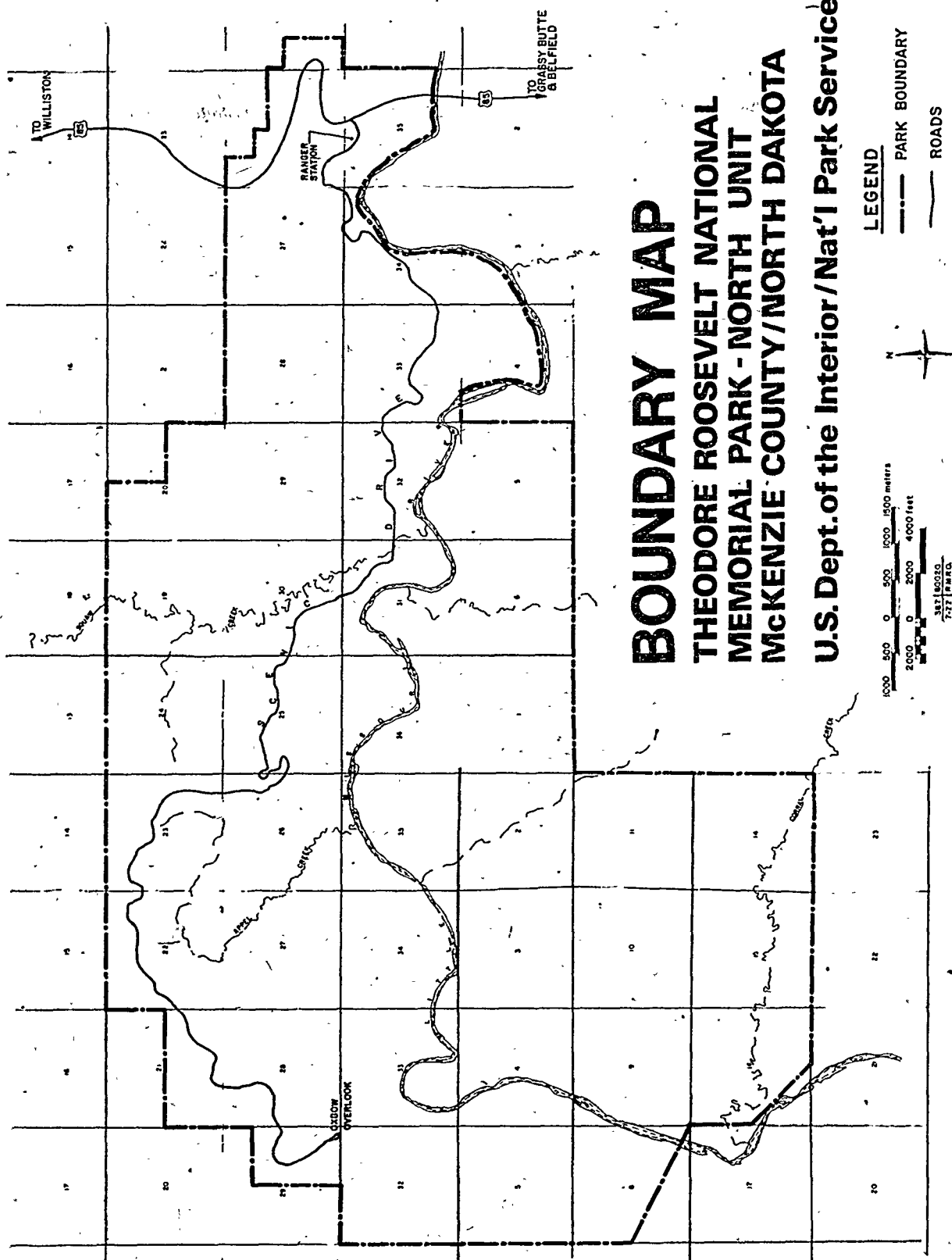
Notice is hereby given that the boundary of Theodore Roosevelt National Memorial Park, established by the Act of April 25, 1947, (61 Stat. 52), as modified by the Act of June 10, 1948, (62 Stat. 352), the Act of June 12, 1948, (62 Stat. 384), and the Act of March 24, 1956, (70 Stat. 55), is adjusted by deleting approximately 160 acres and adding approximately 146 acres pursuant to the authority contained in section 301 of Pub. L. 95-625 (92 Stat. 3475), which provides for said additions and deletions.

The revised boundary is depicted in the accompanying map entitled "Boundary Map, Theodore Roosevelt National Memorial Park—North Unit, McKenzie County/North Dakota" (Drawing 387-80,020), dated July 1977. All new areas included within the boundary shall be administered in accordance with the laws and regulations applicable to the national park.

The memorial park was designated Theodore Roosevelt National Park by the Act of November 10, 1978, Pub. L. 95-625 (92 Stat. 3467), Section 610.

Dated November 27, 1979.

James A. Joseph,  
*Acting Secretary of the Interior.*  
BILLING CODE 4310-70-M



[FR Doc. 79-37378 Filed 12-4-79; 8:45 am]  
 BILLING CODE 4310-70-C



**[Order No. 5, Amendment No. 7]****Southwest Region; Procurement Agent; Delegation of Authority**

Southwest Region Order No. 5, approved March 22, 1972, and published in the Federal Register of April 19, 1972 (37 FR 7722) as amended, is hereby amended to read as follows:

**Section 2—Delegation**

(h) Procurement Agent. The Procurement Agent is authorized to execute, approve and administer contracts not in excess of \$25,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. (National Park Service Order No. 77 (38 FR 7478, as amended.))

Dated: November 8, 1979.

Robert Kerr,

*Acting Regional Director, Southwest Region.*

[FR Doc. 79-37378 Filed 12-4-79; 8:45 am]

BILLING CODE 4310-70-M

**Bureau of Land Management, Geological Survey, Office of Surface Mining Reclamation and Enforcement****Availability of Memorandum of Understanding Entitled Management of Federal Coal**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM); Bureau of Land Management (BLM); and Geological Survey (GS).

**ACTION:** Notice of Availability of a Memorandum of Understanding.

**SUMMARY:** The Assistant Secretaries for Energy and Minerals and Land and Water Resources announce the availability of the document "Memorandum of Understanding, BLM-GS-OSM, Management of Federal Coal" for public review.

**SUPPLEMENTAL INFORMATION:** Notice is given of the availability for public review of a document entitled "Memorandum of Understanding, BLM-GS-OSM, Management of Federal Coal" which was executed October 24, 1979, by the Office of Surface Mining (OSM), Bureau of Land Management (BLM), and Geological Survey (GS). The MOU was developed to implement the Secretary's Division of Responsibilities as set forth in Document "Division of Functions and Responsibilities Concerning Management of Federal Coal Between the Office of Surface Mining, the U.S. Geological Survey and the Bureau of Land Management," which was approved in July 1978. The purpose of this document is to establish agency

responsibility and outline the procedures that shall be followed by each agency for the management of Federal coal resources. The MOU relates only to Federal coal and includes procedures to be followed for: (1) Land use planning and unsuitability designations, (2) Activity planning, lease offering, exploration licenses and preference right lease applications, (3) managing leased coal lands, (4) Mining and reclamation plan review and approval, (5) Mining operations and agency coordination, (6) Abandonment of mining operations and terminating a lease, and (7) Joint meetings, examinations, review of the MOU. The agreement does not cover detailed relationships with other government agencies.

**ADDRESS:** Copies of the document may be obtained from the following offices:

Director (130), Bureau of Land Management, 18th & C Streets, NW., Washington, D.C. 20240.

Director, Office of Surface Mining, Division of Federal Programs, 19th & Constitution Ave., NW., Washington, D.C. 20240.

Director, Geological Survey, National Center (171), Reston, Virginia 20092.

**FOR FURTHER INFORMATION CONTACT:**

H. Robert Moore, Assistant to the Director, Office of the Coal Management (202) 343-4836, Bureau of Land Management, 18th & C Streets, Washington, D.C. 20240.

Donald Maurer, Chief, Division of Federal Programs (202) 343-5335, Office of Surface Mining, 1951 Constitution Avenue, Washington, D.C. 20240.

Thomas O. Friz, Deputy Assistant Director, Mineral and Water Resources (703) 860-6081, Geological Survey National Center, 1943 Newton Square, East Reston, Virginia 22092.

Dated: November 29, 1979.

Joan M. Davenport,

*Assistant Secretary of the Interior.*

Guy R. Martin,

*Assistant Secretary, Land and Water Resources.*

[FR Doc. 79-37354 Filed 12-4-79; 8:45 am]

BILLING CODE 4310-05-M

**INTERNATIONAL TRADE COMMISSION**

[Investigation No. 337-TA-74]

**Certain Rotatable Photograph and Card Display Units, and Components Thereof; Order No. 1**

Pursuant to my authority as Chief Administrator Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: November 29, 1979.

Donald K. Duvall,

*Chief Administrative Law Judge.*

[FR Doc. 79-37364 Filed 12-4-79; 8:45 am]

BILLING CODE 7020-02-M

[332-106]

**Identification of Chemicals for the New Tariff Nomenclature for Certain Benzenoid Chemicals**

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice is hereby given that the Commission has made its preliminary determination pursuant to Investigation No. 332-106, instituted June 28, 1979 (44 FR 39315) with respect to a list of benzenoid chemicals and products imported into the United States prior to January 1, 1978, or produced in the United States, in commercial quantities, prior to May 1, 1978. The list pertains to chemicals and products which are of a type classified in one of 47 "basket" categories, enumerated in the Annex to this notice. Chemicals and products which are not on the list and which are classifiable in the 47 "basket" provisions will become eligible (in accordance with concessions negotiated during the MTN) for (1) immediate tariff reductions without staging, (2) accelerated staging, or (3) greater tariff reductions than the remainder of the chemicals and products in the "baskets", under the new tariff nomenclature provided for certain benzenoid chemicals and products in section 223(d) of the Trade Agreements Act of 1979.

A copy of the list in tabular form can be obtained free of charge from the Commission. The list consists of (1) an alphabetic listing of Chemical Abstracts Service (CAS) names and (2) a listing in order of CAS registry numbers.

**WRITTEN SUBMISSIONS:** Interested parties are invited to comment on the Commission's preliminary determination of chemicals and products appearing on the list. Proposals to modify the list must be accompanied by supporting documentation in order that the Commission may evaluate public comments. All public submissions should include at least the following information:

Name of Federal Agency of registration of the articles.

Name of the chemical or product as specified in the registration form.

Chemical Abstracts Service (CAS) number, if available.

Month and year of registration with above-named agency.  
 Month and year that commercial production began or importation occurred.  
 Item number, from the list of 47 basket categories, listed in the Annex to this notice that characterizes the named article.  
 Certification of the above by a responsible official of the company.

Written comments should be submitted by January 21, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ed Cappuccilli, Office of Industries ((202) 523-0490) or Mr. Holm Kappler, Office of Nomenclature, Valuation, and Related Activities ((202) 523-0362), United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

**SUPPLEMENTARY INFORMATION:** The Customs Valuation Code negotiated in the Multilateral Trade Negotiations (MTN), as implemented by section 223(d) of the Trade Agreements Act of 1979, provides for a new tariff nomenclature for benzenoid chemicals and products with rates of duty adjusted to reflect the adoption by the United States of a revised system of customs valuation based principally upon transaction value. The Commission has been requested by the Special Representative for Trade Negotiations (STR), at the direction of the President, to prepare a list of those benzenoid chemicals and products imported into the United States prior to January 1, 1978, or produced in the United States in commercial quantities prior to May 1, 1978.

The Commission will provide a final list to the President and the STR not later than March 31, 1980. The list will include not only the CAS names of the chemicals and products but also their commercial names and synonyms.

Issued: November 26, 1979.

By order of the Commission:

Kenneth R. Mason,  
 Secretary.

#### Annex

Basket categories in the new tariff nomenclature for benzenoid chemicals and products.

Item No. <sup>1</sup>	Description
1. 402.52—	Other hydrocarbons
2. 402.80—	Other halogenated hydrocarbons
3. 403.12—	Other hydrocarbon derivatives
4. 403.50—	Other alcohols, phenols, etc.
5. 403.64—	Other ethers, ether-alcohols, etc.
6. 404.28—	Other monocarboxylic acids, etc.
7. 404.36—	Other polycarboxylic acids, etc.
8. 404.48—	Other carboxylic acids
9. 404.88—	Other amines, etc.

<sup>1</sup>These are items in the new tariff nomenclature for benzenoid chemicals and products provided for in Section 223(d) of the Trade Agreements Act of 1979.

#### Item No.

10. 405.08—Other amines having 1 or more oxygen functions, etc.
11. 405.32—Other amides, etc.
12. 405.60—Other nitrile function compounds
13. 405.68—Other diazo-compounds, etc.
14. 405.80—Other compounds with other nitrogen functions
15. 406.08—Other organo-inorganic compounds
16. 406.40—Other heterocyclic compounds
17. 406.56—Other sulfonamides
18. 406.61—Other sultones, etc.
19. 407.05—Other acyclic organic chemicals, etc.
20. 408.22—Other herbicides
21. 408.28—Other insecticides
22. 408.38—Other pesticides
23. 409.26—Other textile assistants
24. 409.66—Other acid dyes
25. 409.74—Other basic dyes
26. 409.82—Other direct dyes
27. 409.90—Other disperse dyes
28. 410.00—Other solvent dyes
29. 410.08—Other reactive dyes
30. 410.16—Other vat dyes
31. 410.20—Other dyes
32. 410.32—Other color lakes and toners, etc.
33. 411.08—Other imidazoline derivatives
34. 411.40—Other papaverine, etc.
35. 411.48—Other alkaloids
36. 411.56—Other antihistamines
37. 411.72—Other penicillin
38. 411.84—Other anti-infective sulfonamides
39. 411.94—Other anti-infective agents
40. 412.02—Other autonomic drugs
41. 412.10—Other cardiovascular drugs
42. 412.34—Other antidepressants
43. 412.38—Other drugs, etc.
44. 412.48—Other hormones
45. 412.64—Other vitamins
46. 412.68—Other drugs
47. 413.28—Other aromatic compounds, etc.

[FR Doc. 79-37393 Filed 12-4-79; 8:45 am]

BILLING CODE 7020-02-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Proposed Consent Judgment in United States v. Tobacco Distributors' Association of N.J., et al. and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed consent judgment and a Competitive Impact Statement as set out below have been filed with the United States District Court for the District of New Jersey in *United States v. Tobacco Distributors' Association of N.J., et al.*, Civ. No. 79-1003.

The Complaint in this action alleged that nine corporate cigarette distributors and the Tobacco Distributors' Association of N.J., (TDA), all named as defendants therein, conspired among themselves and other coconspirators to fix and raise the prices of cigarettes sold to retailers in the State of New Jersey in

violation of Section 1 of the Sherman Act.

The proposed judgment enjoins each of the defendants for a period of ten years from making, directly or indirectly, any agreement with any distributor or subjobber to fix or raise prices or set other terms or conditions or to establish the date for any changes in prices for the sale of cigarettes to retailers except that, in connection with the *bona fide* sale of cigarettes to another distributor, subjobber or retailer, a defendant distributor is permitted to announce the price or any contemplated change in price of cigarettes to the purchaser. The judgment also enjoins each distributor defendant from communicating all cigarette price information to distributors and subjobbers. Each distributor defendant, under the terms of the judgment, also must require as a condition of the sale or other disposition of all, or substantially all of the defendants assets, that the acquiring party agree to be bound by the provisions of the judgment and file its consent to that effect with the Court at least 15 days prior to such sale or disposition.

The judgment further specifically enjoins the defendant TDA, in addition to the foregoing, from directly or indirectly receiving and collecting present or proposed future prices for cigarettes and distributing this information by printed price lists or otherwise except that, if requested in writing by the Division of Taxation of the Department of the Treasury of the State of New Jersey in connection with or in furtherance of its enforcement activities, the TDA may collect such information and communicate it only to the Division of Taxation. The TDA is not prohibited by the judgment from receiving and collecting information pertaining to a distributor's cost of selling cigarettes for the purpose of communicating this information to the Legislature of the State of New Jersey or the Congress of the United States in connection with pending or proposed legislation.

The proposed judgment requires all of the defendants to furnish a copy of the Final Judgment to each of its officers, agents, and each employee having any responsibility for the pricing of cigarettes. Each defendant, within 60 days after entry of the Final Judgment or within 60 days of the appointment or other designation of a person to such office or responsibility, will file with the Court an affidavit as to the fact and manner of its compliance with the foregoing. The defendant TDA, in addition to the foregoing, is also

required to furnish a copy of the Final Judgment to its Executive Director and to each of its members within 30 days after entry of judgment and, within 60 days after entry of judgment, is required to file an affidavit with the Court setting out the fact and manner of its compliance with this requirement. Also, the defendant TDA, within 30 days following the enrollment of a new member or re-enrollment of a former member, is required to mail a copy of the Final Judgment to each new or re-enrolled member. Further, the defendant TDA is required to establish a program for the dissemination of, education as to, and compliance with the Final Judgment, advising each of its officers, its Executive Director, and each of its members of its and their obligations under the Final Judgment. Within 120 days following entry of judgment and thereafter for a period of five years, upon the written request of the Government made on or about the anniversary date of such entry of judgment, the TDA will serve upon the Government an account of all steps it has taken during the preceding year to discharge its obligation to explain the Final Judgment and state its policy to comply with its terms.

The CIS provides a list of the defendants, a summary of the practices involved in the alleged violation, a detailed explanation of the judgment, the alternative remedies considered by the Government, and the anticipated effect of the proposed judgment on competition. The proposed judgment and CIS are published in the Federal Register and are available upon request or for inspection in Room 7416, Department of Justice, Washington, D.C., and for inspection in the Office of the Clerk of the United States District Court for the District of New Jersey, in the Post Office and Courthouse Building, Franklin and Walnut Streets, Newark, New Jersey 07101. Comments concerning the judgment should be directed to Ralph T. Giordano, Antitrust Division, United States Department of Justice, Room 3630, 26 Federal Plaza, New York, New York 10007 within the statutory 60 day time period.

Dated: November 27, 1979.

Joseph H. Widmar,  
Director of Operations.

United States District Court, District of New Jersey, United States of America, Plaintiff, v. Tobacco Distributors' Association of N.J.; Consolidated Service Distributors, Inc.; Eisler & Company, Inc.; Glikin Brothers; J. Costagliola, Inc.; J. Minkin Tobacco & Candy Co.; Jersey City Tobacco Company; Patterson Tobacco & Confectionery Co.; Pine Lesser & Sons, Inc.; and William Schoenberg, Inc., Defendants,

[Civil No. 79-1003 (FBL)]

*United States v. Tobacco Distributors Association of N.J., et al.*

#### Stipulation

Filed November 27, 1979.

It is stipulated by and between the plaintiff, United States of America, and the defendants, Tobacco Distributors' Association of N.J., Consolidated Service Distributors, Inc., Eisler & Company, Inc., Glikin Brothers, J. Costagliola, Inc., J. Minkin Tobacco & Candy Co., Jersey City Tobacco Company, Patterson Tobacco & Confectionery Co., Pine Lesser & Sons, Inc. and William Schoenberg, Inc., by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to either party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatsoever, and making of this Stipulation shall be without prejudice to plaintiff and Tobacco Distributors' Association of N.J., Consolidated Service Distributors, Inc., Eisler & Company, Inc., Glikin Brothers, J. Costagliola, Inc., J. Minkin Tobacco & Candy Co., Jersey City Tobacco Company, Patterson Tobacco & Confectionery Co., Pine Lesser & Sons, Inc., and William Schoenberg, Inc., in this and any other proceeding.

Dated: November 27, 1979.

For the Plaintiff, John H. Shenefield, Assistant Attorney General, Joseph H. Widmar, Ralph T. Giordano, Attorneys, Antitrust Division, Department of Justice, Augustus A. Marchetti, Bruce Repetto, Lowell L. Jacobs, Attorneys, Antitrust Division, Department of Justice.

For the Defendants, For the Defendant Tobacco Distributors' Association of N.J., Sills Beck Cummls Radin & Tischman, P.A., Jeffrey J. Greenbaum. For the Defendant Consolidated Service Distributors, Inc. Robinson, Wayne, & Greenberg, Stephen M. Greenberg. For the Defendant J. Minkin Tobacco & Candy Co., Herman Osofsky, Esq. For the Defendant Jersey City Tobacco Company, Krieger & Chodash, William Z. Shulman. For the Defendant Eisler & Company, Sodowick, Richmond & Crecca, Michael G. Sodowick. For the Defendant Glikin Brothers, Wiler Malehorn & Sirota, Jeffrey E. Michelson. For the Defendant J. Costagliola, Inc., David W. Azar, Edward P. Azar. For the Defendant Patterson Tobacco & Confectionery Co., Emil Weissner, Esq., Emil Weissner. For the Defendant Pine Lesser & Sons, Inc., Stern, Steiger, Croland & Bornstein, Steven L. Davis. For the Defendant William Schoenberg, Inc., Kaplowitz and Wise, Steve Wise.

United States District Court, District of New Jersey, United States of America, Plaintiff, v. Tobacco Distributors' Association of N.J.; Consolidated Service Distributors, Inc.; Eisler & Company, Inc.; Glikin Brothers; J. Costagliola, Inc.; J. Minkin Tobacco & Candy Co.; Jersey City Tobacco Company; Patterson Tobacco & Confectionery Co.; Pine Lesser & Sons, Inc.; and William Schoenberg, Inc., Defendants.

[Civil No. 79-1003 (FBL)]

*United States v. Tobacco Distributors Association of N.J., et al.*

Filed: November 27, 1979.

#### Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on April 2, 1979, and plaintiff and defendants by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment:

A. "Distributor" means any person licensed by the State of New Jersey to bring unstamped cigarettes into the State of New Jersey, to affix tax stamps to each pack of cigarettes, and to sell the tax stamped packs of cigarettes in carton quantities to subjobbers and retailers licensed by the State of New Jersey.

B. "Subjobber" means any person licensed by the State of New Jersey to purchase cigarettes from a distributor with the New Jersey cigarette tax stamp imprinted for resale in carton quantities to subjobbers and retailers licensed by the State of New Jersey.

C. "Person" means any individual, corporation, association or other business or legal entity.

III

This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from entering into, adhering to, maintaining, furthering or enforcing directly or indirectly

any agreement, understanding, plan or program with any other distributor or subjobber to:

(1) Raise, fix, stabilize or maintain prices or other terms or conditions at which cigarettes are offered for sale; or

(2) Establish or determine dates for any change in price at which cigarettes are offered for sale.

V

Each defendant is enjoined and restrained from communicating information directly or indirectly to any distributor or subjobber, or from arranging, sponsoring, attending or participating in any meeting or other assembly of distributors or subjobbers in which proposals or statements are made, concerning:

(1) The prices of any cigarettes offered for sale; or

(2) The date or dates for any changes in the prices of cigarettes offered for sale; provided however, that nothing contained in this paragraph shall restrict any defendant, in connection only with a *bona fide* sale of cigarettes to a distributor, subjobber or retailer, to announce the price or any contemplated change in price of such cigarettes to that purchaser.

VI

Each distributor defendant shall require as a condition of the sale or other disposition of all, or substantially all of the assets used by the defendant in the distribution of cigarettes, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with this Court and serve upon the plaintiff its consent to be bound by this Final Judgment at least fifteen (15) days prior to the transfer of ownership.

VII

Each distributor defendant is ordered to furnish a copy of this Final Judgment to each of its officers and agents and to each employee having any responsibility for the pricing of cigarettes within sixty (60) days from the date of entry of this Final Judgment or within sixty (60) days of the appointment or other designation of any person to such office or duty and, within the sixty (60) days immediately following the furnishing of a copy of this Final Judgment as hereinbefore described, the distributor defendant shall file with this Court and serve upon the plaintiff an affidavit as to the fact and manner of its compliance with this Section VII.

VIII

The defendant Tobacco Distributors' Association of N.J.:

(1) Is enjoined and restrained from directly or indirectly receiving and collecting any information concerning present or proposed future prices for cigarettes and distributing it by printed price list or otherwise: *Provided however*, That nothing contained in this subparagraph shall restrict the said defendant from receiving and collecting any such information if so requested in writing by the Division of Taxation of the Department of the Treasury of the State of New Jersey and communicating it to that Division in connection with or in furtherance of its enforcement activities: *Provided further*, That nothing contained in this subparagraph shall

restrict the said defendant from receiving and collecting information pertaining to a distributor's cost of selling cigarettes for the purpose of communicating it to the Legislature of the State of New Jersey or the Congress of the United States in connection with pending or proposed legislation;

(2) Within thirty (30) days after the date of entry of this Final Judgment, shall mail to each of its members a complete copy of this Final Judgment;

(3) Within sixty (60) days after date of entry of this Final Judgment, shall file with this Court and serve upon the plaintiff an affidavit as to the fact and manner of its compliance with subparagraph (2) of this Section VIII;

(4) Within thirty (30) days following the enrollment of a new member of reenrollment of a former member of the said defendant, shall mail to each such new or re-enrolled member a complete copy of this Final Judgment;

(5) Shall establish a program for dissemination of, education as to, and compliance with this Final Judgment, advising each of its officers, its executive director, and its members of its and their obligations under this Final Judgment. This program shall include this Final Judgment in whole or in part or an explanation thereof and a statement of corporate compliance policy thereunder, in an appropriate manual or internal memorandum; and

(6) Within one hundred and twenty (120) days after the entry of this Final Judgment shall serve upon the plaintiff, and thereafter upon written request by the plaintiff on or about the anniversary dates of this Final Judgment for a period of five (5) consecutive years from the date of its entry, an account of all steps it has taken during the preceding year to discharge its obligations under subparagraph (5) of this Section VIII and to include with said account copies of all written directives issued during the prior year with respect to compliance with the terms of this Final Judgment.

IX

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or the Assistant Attorney

General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of any violation hereof.

XI

This Final Judgment shall expire ten (10) years from the date of its entry.

XII

Entry of this Final Judgment is in the public interest.

Dated: Newark, New Jersey.

Honorable Frederick B. Lacey,  
United States District Judge.

United States District Court District of New Jersey, United States of America, Plaintiff, v. Tobacco Distributors' Association of N.J.; Consolidated Service Distributors, Inc.; Eisler & Company, Inc.; Glikin Brothers; J. Costagliola, Inc.; J. Minkin Tobacco & Candy Co.; Jersey City Tobacco Company; Paterson Tobacco & Confectionery Co.; Pine Lesser & Sons, Inc.; and William Schoenberg, Inc., Defendants.

[Civil No. 79-1003 (FBL)]

United States v. Tobacco Distributors' Association of N.J. et al.

Proposed Consent Judgment: Competitive Impact Statement

Filed: November 27, 1979.

The United States of America, pursuant to Section 2 (b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)), hereby

submits this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I

#### *Nature of the Proceedings*

The United States, on April 2, 1979, filed a civil antitrust action under Section 4 of the Sherman Act (15 U.S.C. 4), alleging that the above-named defendants and unnamed coconspirators from at least as early as 1969 and continuing thereafter through at least August 1977, the exact dates being unknown to the plaintiff, had combined and conspired in violation of Section 1 of the Sherman Act (15 U.S.C. 1) to fix and raise the prices of cigarettes sold to retailers in the State of New Jersey. The Complaint alleges further that, as a result of the conspiracy, the prices of cigarettes to retailers in the State of New Jersey were fixed at and raised to non-competitive levels; price competition in the sale of cigarettes to retailers in the State of New Jersey was restrained and retailers of cigarettes in the State of New Jersey were deprived of the benefits of full, free, and open competition in the purchase of cigarettes.

Entry by the Court of the proposed consent judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings, within the 10 years next ensuing, which may be needed to interpret, modify or enforce the judgment or to punish alleged violations of any of the provisions of the judgment.

II

#### *Descriptions of the Practices Involved in the Alleged Violations*

All cigarettes sold in New Jersey are produced outside of the State. New Jersey law requires that only cigarette distributors it licenses may purchase cigarettes for resale within the State, and these distributors are required to affix a tax stamp before sale to licensed wholesalers and retailers. The defendants, except the Tobacco Distributors' Association of N.J. (TDA), are among the largest cigarette distributors licensed by the State of New Jersey. The TDA, a trade association, is a corporation composed of over 30 licensed cigarette distributors. The distributor defendants, all of whom are members of the TDA, regularly purchased substantial quantities of cigarettes, all of which were shipped in a continuous and uninterrupted flow in interstate commerce from manufacturers outside of the State of New Jersey directly to the defendants within the State. The defendants and coconspirators, beginning as early as 1969 and continuing until at least August 1977, held meetings wherein they discussed and agreed upon the prices at which the distributor defendants and coconspirators would sell cigarettes to retailers, and the TDA disseminated price lists which reflected these agreed to prices.

The sale of cigarettes by the distributor defendants and coconspirators during the period from 1973 through August 1977 totalled about \$500 million.

III

#### *Explanation of the Proposed Consent Decree*

The United States and the defendants have stipulated that the proposed consent judgment, in the form negotiated by and among the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation among the parties with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed judgment is conditioned upon a determination by the Court that the proposed judgment is in the public interest.

A. *Prohibited Conduct.* The proposed judgment will prohibit each of the defendants from entering into, adhering to, maintaining, furthering, or enforcing directly or indirectly any agreement, understanding, plan, or program with any distributor or wholesaler to: (1) Raise, fix, stabilize or maintain prices or other terms or conditions at which cigarettes are offered for sale to retailers; or (2) establish or determine dates for any change in price at which cigarettes are offered for sale to retailers.

The defendants also will be prohibited: (1) From communicating information, directly or indirectly to any distributor or wholesaler concerning the prices of any cigarettes offered for sale; or the date or dates for any changes in the prices of cigarettes offered for sale; or from arranging, sponsoring, attending, or participating in any meeting or other assembly of cigarette distributors or wholesalers in which proposals or statements concerning such prices and dates are made. The distributor defendants, however, will be permitted under the proposed judgment, only in connection with the *bona fide* sale of cigarettes to another distributor, wholesaler or retailer, to announce the price or any contemplated change in price of cigarettes to that purchaser.

Each distributor defendant shall require as a condition of the sale or other disposition of all, or substantially all of its assets: (1) That the acquiring party agree to be bound by the provisions of the judgment; and (2) that the acquiring party file with the Court and serve upon the plaintiff its consent to be bound by the judgment at least 15 days prior to such sale or disposition.

Each distributor defendant will be required to furnish to each of its officers and agents and each employee having any responsibility for the pricing of cigarettes a copy of the Final Judgment within 60 days after its entry or within 60 days of the appointment or other designation of a person to such office or responsibility and will file with this Court and serve upon plaintiff a copy of an affidavit as to the fact and manner as to its compliance with such requirement.

The proposed judgment also will prohibit the defendant TDA from directly or indirectly receiving and collected any information concerning present or proposed future prices for cigarettes and distributing such information by printed price lists or otherwise. The TDA, however, will be permitted to receive and collect this information if specifically requested in writing by the Division of Taxation of the

Department of the Treasury of the State of New Jersey in connection with, or in furtherance of, its enforcement activities. The TDA may communicate such information only to the Division of Taxation. The defendant TDA is not prohibited by the judgment from receiving and collecting information pertaining to a distributor's cost of selling cigarettes for the purpose of communicating this information to the Legislature of the State of New Jersey or the Congress of the United States in connection with pending or proposed legislation.

The defendant TDA will be required within 30 days after entry of judgment to furnish a copy of the Final Judgment to each of its members and within 60 days after entry of judgment shall file an affidavit with the Court and serve a copy upon plaintiff as to the fact and manner of its compliance with such requirement. Also, the TDA, within 30 days following the enrollment of a new member of re-enrollment of a former member, shall mail a complete copy of the Final Judgment to each such new or re-enrolled member. The TDA also will be required to establish a program for dissemination of, education as to, and compliance with the judgment, advising each of its officers, its executive director, and each of its members of its and their obligations under the judgment. The program is to include the Final Judgment, in whole or in part, or an explanation of it together with a statement of the TDA's policy to comply with it, in an appropriate manual or internal memorandum. Within 120 days following entry of the judgment and thereafter for a period of five years, upon written request of the plaintiff on or about the anniversary date of the Final Judgment, the TDA will serve upon the plaintiff an account of all steps it has taken during the preceding year to discharge its obligation to inform and explain the judgment to its officers and members. It shall include with such account copies of all written directives the TDA issued during the prior year with respect to compliance with the terms of the judgment.

B. *Scope of the Proposed Judgment.* The proposed judgment applies to the defendant TDA, its officers, agents, executive director and members; to each distributor defendant, its officers, agents, servants and employees and to the persons in active concert or participation with any of the foregoing who shall receive actual notice of the Final Judgment by personal service or otherwise.

The defendants are bound by the provisions contained in the proposed judgment for a period of 10 years from the date of its entry; and thereafter, the judgment shall terminate and cease to be effective unless the Court either modifies or vacates the judgment.

The judgment would apply to the defendants' activities wherever they may occur in the United States.

C. *Effect of the Proposed Judgment on Competition.* The relief encompassed in the proposed judgment is designed to prevent any recurrence of the conduct alleged in the Complaint. The prohibitive language of the judgment should ensure that no future agreements or combinations will be arranged by, between or among the defendants to fix and raise prices of cigarettes offered for sale to retailers in the State of New Jersey.



The judgment provides methods for determining defendants' compliance with the terms of the judgment. The Department of Justice, through duly authorized representatives, may on written request interview officers, employees, and agents of each defendant regarding the defendant's compliance with the judgment. The Department also is given access, upon written request and on reasonable notice, to examine each defendant's records for possible violation of the judgment and to request each defendant to submit reports to the Department on matters contained in the judgment.

It is the opinion of the Department of Justice that the proposed consent judgment provides fully adequate provisions to prevent continuance or recurrence of violations of the antitrust laws charged in the Complaint.

#### IV

##### *Alternative Remedies Considered by the Government*

The defendants made one proposal for a consent judgment which the Government concluded failed to ensure that the conspiracy charged in the Complaint would not recur. The Government, at the request of defendants, made a counterproposal from which the proposed judgment was negotiated. Briefly summarized, the defendants proposed that:

(1) The TDA not be dissolved as requested by the Government in its Complaint;

(2) The TDA and the distributor defendants be prohibited from engaging in price-fixing activities; provided, however, that such prohibition shall not prevent the TDA from informing its members of changes in the minimum prices of cigarettes as announced by the State of New Jersey, nor prevent any defendant from complying with the New Jersey Unfair Cigarette Sales Act of 1952, nor prevent any defendant from lobbying for changes in minimum prices, nor restrict any distributor defendant in the communication of cigarette price information necessary to effect a *bona fide* purchase or sale of cigarettes between and among cigarette distributors, nor prevent any distributor defendant from communicating cigarette price information to the TDA solely for dissemination to Federal, State, or local law enforcement officers; and

(3) The Final Judgment shall expire five (5) years from the date of its entry by the Court.

The Government, satisfied by the defendants' showing that the TDA, in addition to its participation in the conspiracy to fix cigarette prices, had engaged in lobbying, collective bargaining and other lawful activities, did not require that the TDA be dissolved as part of its counterproposal. It included, however, a separate Section (VIII) in its counterproposal which prohibits the TDA from collecting, receiving, or distributing cigarette price information except if it is specifically requested to do so in writing by the Division of Taxation of the Department of the Treasury of the State of New Jersey in connection with and in furtherance of its law enforcement activities, and permits the TDA to communicate the price information so collected only to that Division. The Government's counterproposal also permitted

the TDA to receive and collect cost information pertaining to a distributor's cost of selling cigarettes for the purpose of communicating such information to the Legislature of the State of New Jersey or the Congress of the United States in connection with pending or proposed legislation. Also, the same Section of the Government's counterproposal requires the TDA to serve copies of the Final Judgment on all of its present members and any new or former members it may thereafter enroll, and it is required to institute a program for the dissemination of, education, as to, and compliance with the Final Judgment. This Section also provides that, on specific anniversary dates for a period of five (5) consecutive years after entry of the Final Judgment, the Government may require the TDA to give an account of the steps it has taken to discharge its compliance obligation.

The Government in its counterproposal also provided that all of the defendants be prohibited from communicating cigarette price information to any distributor or subjobber or meeting with them for such purpose except that, in connection with a *bona fide* sale, a defendant may communicate cigarette price information to the purchaser in the transaction.

The Government's counterproposal provides that the Final Judgment shall remain in existence for a period of ten (10) years following its entry. The Government believes that any period less than 10 years will not be sufficient to ensure that the effects of the wrongful conspiracy participated in by the defendants will be fully dissipated.

#### V

##### *Remedies Available to Potential Private Litigants*

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered as well as costs and reasonable attorney fees.

Entry of the proposed consent judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)) this proposed judgment has no *prima facie* effect in any lawsuits which may be pending or hereafter brought against the defendants.

#### VI

##### *Procedures Available for Modification of the Proposed Judgment*

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Ralph T. Giordano, Antitrust Division, U.S. Department of Justice, Room 3630, 26 Federal Plaza, New York, New York 10007, within the 60-day period provided by the Act. These comments, and the Department's responses to them, will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it

should determine that some modification of it is necessary. The proposed judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

#### VII

##### *Alternatives to the Proposed Consent Judgment*

The alternative to the proposed judgment considered by the Government was litigating the issues on the merits and on relief. In the Government's view, disposition of the law suit without further litigation is appropriate in that the proposed judgment provides substantially all the relief which the Government sought in its Complaint, and the additional cost of litigation necessarily involved if the issues were litigated would not result in any additional relief. Accordingly, the Government believes entry of the proposed judgment is in the public interest.

#### VIII

No material and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act were considered in formulating the proposed judgment. Consequently, none are submitted pursuant to such Section 2(b). Dated November 27, 1979, New York, New York.

Augustus A. Marchetti,  
Bruce Repetto,  
Lowell L. Jacobs.

Attorneys, Department of Justice, Antitrust Division, 26 Federal Plaza, Rm. 3630, New York, New York 10007.

[FR Doc. 79-37363 Filed 12-4-79; 8:45 am]  
BILLING CODE 4410-01-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-97]

### Aerospace Safety Advisory Panel; Meeting

The Aerospace Space Advisory Panel will meet on January 16, 1980, in room 7002, Federal Building 6, 400 Maryland Avenue SW., Washington, DC. The Panel will present its annual report to the Administrator and Deputy Administrator. The meeting is open to the public and will begin at 2 p.m. and continue until 3:45 p.m. The seating capacity of the room is about 40 persons, including members and other participants. Visitors will be requested to sign a visitor's register. To assure adequate seating for all, those members of the Public planning to attend the meeting are requested to contact Gilbert L. Roth, Area Code 202 755-8380.

The panel is chartered by Congress "to review safety studies and operations plans referred to it and shall make



reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards, and shall perform such other duties as the Administrator may request."

Pursuant to carrying out its statutory duties, the Panel reviews, evaluates, and advises on those program activities, systems, procedures and management policies that contribute to risk and provide identification and assessment of these for management. Priority is given to those programs that involve the safety of manned flight. Major subject will be the Space Shuttle Program.

Chairperson of the Panel is Mr. Herbert E. Grier. The contact for further information is Gilbert L. Roth, Special Assistant, Aerospace Safety Advisory Panel, 400 Maryland Avenue SW, Washington, DC 20546. Phone, Area Code 202 755-8380.

November 27, 1979.

Russell Ritchie,

*Deputy Associate Administrator for External Relations.*

[FR Doc. 79-37309 Filed 12-4-79; 8:45 am]

BILLING CODE 7510-01-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards, Subcommittee on Site Evaluation; Meeting

The ACRS Subcommittee on Site Evaluation will hold a meeting starting at 8:30 a.m. on Thursday, December 20, 1979 in Room 1046, 1717 H St., NW., Washington, DC 20555 to discuss siting and emergency planning research and NRC siting policy.

The Subcommittee will be considering portions of the budget and program of the Office of Nuclear Regulatory Research. Since the NRC budget proposals are now part of the President's budget—not yet submitted to Congress—public disclosure of budgetary information is not permitted. See OMB Circular A-10. The ACRS, however, is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussion with members of the NRC Staff. For the reason just stated, a discussion would not be possible if held in public session.

I have determined, therefore, that it is necessary to close portions of this meeting to prevent frustration of this

aspect of the ACRS' statutory responsibilities, in accordance with Exemption 9(B) to the Government in the Sunshine Act (522b(c)(9)(B)).

Further information can be obtained by a prepaid telephone call to be Designated Federal Employee for this meeting, Mr. Ragnwald Muller (telephone 202/634 1413) between 8:15 a.m. and 5:00 p.m., e.s.t.

Dated: November 28, 1979.

John C. Hoyle,

*Advisory Committee Management Officer.*

[FR Doc. 79-37043 Filed 12-4-79; 8:45 am]

BILLING CODE 7530-01-M

## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

#### Contracting System for Motion Picture and Videotape Productions

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: Notice of issuance of contracting system for motion picture and videotape productions.

SUMMARY: OFPP Policy Letter No. 79-4 was issued on November 28, 1979 prescribing a uniform Government-wide system for contracting for motion picture and videotape productions. The uniform system will be implemented by the General Services Administration and the Department of Defense through changes to the Federal Procurement Regulations and the Defense Acquisition Regulation. The Policy Letter, which is to become effective on January 1, 1980, is set forth in Attachment 1 below.

FOR FURTHER INFORMATION CONTACT: David F. Baker, Chairman, Federal Audiovisual Committee, 202/395-7207.

James D. Currie,

*Acting Administrator.*

November 28, 1979.

[Policy Letter No. 79-4]

To the Heads of Executive Departments and Establishments

#### Contracting for Motion Picture Productions and Videotape Productions

1. *Purpose.* This Policy Letter directs the establishment of a uniform Government-wide system for contracting for motion picture and videotape productions. It replaces Policy Letter 78-5 issued by the Office of Federal Procurement Policy (OFPP) on August 28, 1978.

2. *Background.* Beginning in the early 1970's various management studies were made of the Government's audiovisual

contracting programs. These studies indicated widespread dissatisfaction with the policies and procedures followed by Federal agencies and departments in contracting for the production of audiovisuals, particularly motion pictures. OFPP Policy Letter 78-5 corrected many of the motion picture contracting problems noted in the studies and established a Government-wide system for contracting for motion pictures. Since the issuance of Policy Letter 78-5, members of the audiovisual industry, Congress, and individual Federal agencies have urged OFPP to develop a similar system for videotape productions. This policy letter responds to those suggestions and establishes a Government-wide system for both motion picture and videotape productions.

3. *Policy.* Executive agencies and departments shall use the uniform Government-wide system described in paragraph 7 below in contracting for motion picture and videotape productions. The uniform system is intended to:

- a. Reduce waste and inefficiency inherent in many existing departmental and agency contracting procedures;
- b. Ensure that the Government obtains quality motion picture and videotape productions at fair, competitive prices;
- c. Provide a central point within the Government where producers can obtain information on motion picture and videotape contracting procedures and opportunities; and
- d. Increase competition for Government contracts.

4. *Implementation.* The General Services Administration and the Department of Defense shall make such changes to the Federal Procurement Regulations and the Defense Acquisition Regulation as are necessary to make the uniform contracting system operational on March 31, 1980. The motion picture contracting system required by this policy letter was initially implemented on March 30, 1979, by Policy Letter 78-5. That system shall continue in effect until March 31, 1980, when solicitations and awards for both motion pictures and videotape productions shall be in accordance with the herein prescribed system. The Executive Agent shall take immediate steps to assure that the prescribed system is fully functional on March 31, 1980.

5. *8(a) Contracts.* Contracts made pursuant to Section 8(a) of the Small Business Act will be handled in accordance with existing regulations and use of the uniform system is not required.

6. *Definitions.* As used in this Policy Letter:

a. "Motion picture production" refers to those productions in which the majority of the photographic and editorial work was accomplished in 8-mm, 16-mm, 35-mm, or 70-mm sound-on-film. It does not include videotape, sound slide, multi-media productions, or separate media services.

b. "Videotape production" refers to those productions in which the majority of the recording and editorial work was accomplished in magnetic videotape, videocassette, or videodisc. It does not include motion picture film, sound slide, or multimedia productions or separate media services.

c. "Federal Audiovisual Committee" refers to an interagency committee chaired by OFPP. The Committee is made up of representatives from more than 20 Federal agencies. Its purpose is to advise and assist in the formulation of Government-wide audiovisual policy.

d. "Executive Agent" refers to the Directorate for Audiovisual Management Policy of the Department of Defense. The Executive Agent is designated by OFPP and is responsible for administering and maintaining the motion picture and videotape contracting system. The Executive Agent also serves as the central information source about the system.

e. "Interagency Audiovisual Review Board" refers to a sub-group of the Federal Audiovisual Committee. It is chaired by the Executive Agent and is used to evaluate motion picture and videotape productions submitted by producers interested in obtaining Government contracts for motion picture and videotape work.

#### 7. Uniform System.

a. *Open Invitation.* All persons and firms interested in producing Government motion picture or videotape productions are required to submit samples of their work to the Executive Agent. The Executive Agent will place notices, at least semi-annually, in the Commerce Business Daily inviting the submission of such work samples. Similar notices will be placed in the trade press where feasible.

b. *Submission of Work Samples:* (1) Producers interested in motion picture work must submit a 16-mm sound sample film that they have produced within the previous three years.

(2) Producers interested in videotape work must submit a sample program on 3/4-inch, U-format videocassette that they have produced during the previous three years.

(3) Each sample film and videotape must be accompanied by a statement explaining its purpose, the sponsor, production medium, the contract price, and/or production cost.

c. *Review of Work Samples.* Work samples submitted to the Executive Agent will be reviewed and evaluated by the Interagency Audiovisual Review Board (IARB). A minimum of five IARB members must participate in the evaluation of each work sample. The public may attend meetings of the IARB during which sample motion picture and videotape productions are viewed. The public may not, however, be present nor participate in the formal evaluation of the productions.

d. *Criteria for Evaluating Work Samples.* Films and videotapes reviewed by the IARB will be evaluated on the basis of the following criteria:

(1) Achievement of Purpose(s): Did the production accomplish its stated purpose? Was it appropriate for the intended audience? 0-20 Points.

(2) Creativity: Did the production provide a fresh or innovative way of conveying the message? Was the manner of presentation appropriate? 0-20 Points.

(3) Continuity: Did the subject develop in a logical or understandable manner? 0-10 Points.

(4) Technical Quality: Did the following elements, if included in the production, exhibit technical competence?

Direction  
Writing  
Photography/Camera Work  
Editing  
Artwork/Animation  
Narration/Dialogue  
Music and Sound  
Special Effects

0-50 Points

e. *Obtaining Contracts and Placement on Qualified Producers Lists—*(1) *Contracting with the Executive Agent.* The Executive Agent will offer contracts to all producers whose films and/or videotapes receive an average composite score of 70 or more from the IARB. The contracts will contain standard provisions covering Government motion picture or videotape work. Orders for production and other work will be awarded under these contracts. The authority for the contracts is this Policy Letter and 41 U.S.C. 252(c)(10).

(2) *Placement on the Qualified Lists.* Producers who sign contracts with the Executive Agent will be placed on a Qualified Film Producers List (QFPL) or a Qualified Videotape Producers List (QVPL). Producers, who qualify on the basis of motion picture and videotape work samples, may be placed on both lists.

(3) *Continuous Qualification.* The QFPL and QVPL will remain open and

producers may submit work samples to the Executive Agent at any time. Producers whose initial films and/or videotapes do not receive a score of 70 or more may continue to submit samples until they qualify. All samples will be reviewed on a first-in, first-out basis. Producers who initially qualified for the QFPL under the "grandfather arrangement" in Policy Letter 78-5 must still submit a work sample to the Executive Agent within one year of the date of their original contracts.

(4) *Removal from the QFPL or QVPL.* A producer will remain on the QFPL or QVPL until an agency complains of unsatisfactory work on a specific production or until the producer requests removal. If an agency complains of unsatisfactory work, the IARB will review the production and the complaint. When warranted, the IARB may recommend that the Executive Agent terminate the producer's contract and remove the producer from the QFPL or QVPL. Also, producers not responding to five consecutive solicitations will be asked if they wish to be removed from the list(s).

(5) *Structure and Distribution of the QFPL and QVPL.* Firms placed on the QFPL or QVPL will not be classified by subject matter or geographic area unless they so request. Copies of the qualified lists will be distributed by the Executive Agent to all using agencies and to persons requesting them.

f. *Agencies' Use of QFPL and QVPL—*(1) *Contacting the Executive Agent.*

When an agency is prepared to contract for the production of a motion picture or videotape, the contracting officer will contact the Executive Agent and request the names of a specific number of producers from the QFPL or QVPL. The Executive Agent will furnish names in increments of five. The names furnished will be selected from the QFPL or QVPL on a random number, rotational basis. For every increment of five names requested, the procuring agency may select a maximum of two additional names from the appropriate list. The names provided by the Executive Agent will be placed at the bottom of the list for future use.

(2) *Use of Names.* The agency will solicit proposals from all firms referred by the Executive Agent and from those appropriately selected by the agency itself. Proposals must be solicited from at least five producers for each requirement (unless a noncompetitive acquisition is justified in accordance with agency regulations). Agencies will determine in light of the specific film or videotape to be produced whether more than five proposals should be solicited. As a general guide, however, agencies

should not request more than two increments of producers from the Executive Agent for productions estimated to cost less than \$100,000.

g. *Soliciting Proposals*—(1) *Use of Solicitation Formats*. Agencies shall use the solicitation formats developed by the Federal Audiovisual Committee in soliciting proposals for specific productions. The contracts between the producers on the qualified lists and the Executive Agent contain standard terms and conditions and those terms and conditions will not be repeated in each solicitation or award. The solicitation formats developed by the Federal Audiovisual Committee may be obtained from the Executive Agent.

(2) *Two Approaches*. When using the solicitation formats obtained from the Executive Agent, agencies must first determine whether scripting will be separated from production. This is a matter of judgment involving two approaches to production. The first approach holds that a clear separation can be made in some instances between scripting and production and that any producer can produce a satisfactory motion picture or videotape production from a completed script. The second approach holds that production of some films and videotapes (from initial research through treatment, scripting, and production) is a continuous process which requires the continuous involvement of one creative individual from start to finish. Solicitation formats have been developed for each of these approaches and the proper format must be used depending on the approach selected.

h. *Scripting Separated from Production*—(1) *Obtaining Scripts*. When an agency determines that scripting for a particular film or videotape should be separated from production, the agency will obtain and approve a script. Generally, scripts may be obtained directly from writers under existing small purchase procedures.

(2) *Obtaining Production Proposals*. Once the script has been acquired it will be included in the production specifications and used by the agency in soliciting competitive proposals from the firms on the QFPL or QVPL. Proposals will be solicited in the appropriate format, in accordance with paragraph g.(1) above.

(3) *Evaluation Criteria*. (a) Motion picture and videotape production proposals, submitted by producers when scripting has been separated from production, will be evaluated on the basis of:

—Qualifications and relevant experience of proposed production team members.

—Creativity as demonstrated in sample production.  
—Technical quality of sample production.

(4) *Production Awards*. The production award will be made to the responsible producer submitting the best proposal, price and other factors considered.

i. *Scripting Included with Production*—(1) *Obtaining Treatments*. Where scripting is to be included as part of the production effort, agencies will solicit treatment proposals from firms on the QFPL or QVPL. The appropriate solicitation format must be used in accordance with paragraph g.(1) above.

(2) *Evaluation Criteria*. Proposals for treatments will be evaluated by the agency on the basis of:

—Qualifications and relevant experience of proposed production team members.  
—Creativity as demonstrated in sample production and sample treatment.  
—Technical quality of sample production.  
—Offeror's understanding of the production's purpose and subject matter.

(3) *Awards for Treatments*. Awards for the development of treatments should generally be made to at least two producers submitting proposals. These awards will be made at a preestablished fixed price determined by the agency and included in the solicitation. Subsequent awards for the development of multiple scripts (not treatments) should be made only in unusual cases.

(4) *Production Awards*. The treatments will be evaluated together with technical and price proposals for the production, and the award for the scriptwriting and production work will be made to the responsible producer whose proposal is most advantageous to the Government, price and other factors considered.

j. *Responsibility Determinations*. The evaluation criteria contained in paragraphs h. and i. will be used by agencies in evaluating producer proposals. Agency contracting officers, however, will determine a particular offeror's responsibility prior to making an award. For this purpose, financial and other data may be requested.

8. *Effective Date*. This Policy Letter shall be effective January 1, 1980.

9. *Concurrence*. The Director of the Office of Management and Budget concurs in the issuance of this policy directive.

James D. Currie,  
*Acting Administrator*.

[FR Doc. 79-37361 Filed 12-4-79; 8:45 am]  
BILLING CODE 3110-01-M

## OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

### Nonrubber Footwear; Adjusted Restraint Levels Under the Orderly Marketing Agreement With Taiwan

Below is a letter to the Commissioner of Customs adjusting the restraint levels for the third year restraint period (July 1, 1979 through June 30, 1980) as authorized by Presidential Proclamation 4510 of June 22, 1977.

Reubin O'D. Askew,  
*Special Trade Representative*.

November 29, 1979.

Honorable Robert Chasen  
*Commissioner, U.S. Customs Service,*  
*Department of the Treasury,*  
*Washington, D.C. 20229.*

Dear Mr. Chasen: This Office has received a request from Taiwan concerning the carryover provision in paragraph 4(a) of the orderly marketing agreement dated June 14, 1977.

Accordingly, pursuant to operative paragraph (6) of Presidential Proclamation 4510 of June 22, 1977, we request that the third year restraint level applicable to nonrubber footwear imports entering under TSUS Item No. 923.91 be increased by 295, 857 pairs.

The adjusted restraint level for the period July 1, 1979 through June 30, 1980, will be 107,900,857.

This letter will be published in the Federal Register.

Sincerely,

Reubin O'D. Askew.

[FR Doc. 79-37315 Filed 12-4-79; 8:45 am]

BILLING CODE 3190-01-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Form 709-A, U.S. Short Form Gift Tax Return; Request for Comments

AGENCY: Internal Revenue Service,  
Department of the Treasury.

ACTION: Notice of proposed new Form 709-A, U.S. Short Form Gift Tax Return, for 1981, and request for comments.

SUMMARY: As part of their forms simplification and reporting burden reduction efforts, the Internal Revenue Service is proposing the issuance of a new Form 709-A, United States Short Form Gift Tax Return, for 1981. After considering all comments and suggestions, the Service will decide whether to adopt the proposed form for 1981.

DATE: Written comments and suggestions should be mailed or delivered by February 15, 1980.

**ADDRESS:** Written comments and suggestions should be mailed or delivered to the Chairman, Tax Forms Coordinating Committee, Internal Revenue Service, Room 5577, 1111 Constitution Avenue NW., Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dave Bunch, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, telephone (202) 566-4349 (not a toll-free telephone number).

**SUPPLEMENTARY INFORMATION:** The purpose is to provide the public with a short-form return that may be filed instead of the longer Form 709 when a husband and wife elect to split gifts of not more than \$6,000 to a third person.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

Dated: November 21, 1979.

Gerald G. Portney,  
*Assistant Commissioner (Technical).*  
BILLING CODE 4830-01-M

**Calendar Year 19.....**

### List of Gifts

☒ I consent to have the gifts made by my spouse to third parties during the calendar year considered as made one-half by each of us.

## Consent

**Consenting spouse's signature** ▶

Under penalties of perjury, I declare that I have examined this return, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than donor) is based on all information of which preparer has any knowledge.

Donor's signature \_\_\_\_\_ Date \_\_\_\_\_

Preparer's signature  
(other than donor's) \_\_\_\_\_ Date \_\_\_\_\_

Preparer's address (other than donor's) ▶	Date ▶
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## General Instructions

For Privacy Act notice, see the Form 1040 instructions. References are to the Internal Revenue Code.

## Introduction

The Federal gift tax applies if you made gifts of over \$3,000 of present interests to any one person during the calendar year. If, however, you made gifts to third parties, you can "split" the gifts with your spouse and thereby double the amount excludable (\$6,000, the total of the spouses' \$3,000 exclusions). If your gifts to one or more persons totaled more than \$3,000, but were non-taxable because no individual received more than \$6,000, you may be able to use this shorter annual form instead of the longer quarterly Form 709.

## A. Who May File

You can use Form 709-A if all of the following requirements are met:

- (1) You are a citizen or resident of the U.S., and were married during the entire calendar year to one individual who is a citizen or resident of the U.S.
- (2) Your only gifts to a third party consisted entirely of present interests in tangible personal property, cash, or stocks and bonds listed on a stock exchange.
- (3) Your total gifts to each third-party donee are not more than \$6,000 for the calendar year.
- (4) You did not make gifts of more than \$3,000 to your spouse.
- (5) Your spouse did not make any gifts during the calendar year to any of the donees listed on this form.
- (6) Your spouse agrees to split with you all of the gifts you made during the calendar year.

**Note:** Gifts include transfers of property where no money changes hands and also transfers where some payment was made, but the payment made was less than the value of the item transferred.

## B. When to File

Form 709-A is a calendar-year return to be filed on or before February 15 of the calendar year following the year when the non-taxable split gifts were made, unless an extension of time to file has been granted.

## C. Where to File

Unless the return is hand carried to the office of the district director, mail the return to the Internal Revenue Service Center listed below for the State in which the donor has legal residence or principal place of business or, if the donor has neither in the U.S., with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255, U.S.A.

New Jersey, New York City and counties of Nassau, Rockland, Suffolk, and Westchester	Holtsville, NY	00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA	05501
Alabama, Florida, Georgia, Mississippi, South Carolina	Atlanta, GA	31101
Michigan, Ohio	Cincinnati, OH	45999
Arkansas, Kansas, Louisiana, New Mexico, Oklahoma, Texas	Austin, TX	73301
Alaska, Arizona, Colorado, Idaho, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT	84201
Illinois, Iowa, Missouri, Wisconsin	Kansas City, MO	64999
California, Hawaii	Fresno, CA	93888

Indiana, Kentucky, North Carolina, Tennessee, Virginia, West Virginia

Memphis, TN 37501

Delaware, District of Columbia, Maryland, Pennsylvania

Philadelphia, PA 19255

## D. Additional Help

- Your local IRS office will help you with the following matters:
- (1) Annual exclusion (section 25.2503-2 of the regulations).
  - (2) Future interests (section 25.2503-3 of the regulations).
  - (3) Fair market value (section 2512 of the Code and related regulations).
  - (4) Adjusted basis (section 1011 of the Code and related regulations). Publication 551, Basis of Assets, and the Instructions for Schedule D (Form 1040).

## Specific Instructions

### Column (a)

#### Donee's Name and Address

List the names and addresses of all those to whom you made gifts totaling more than \$3,000 during the calendar year.

### Column (b)

#### Description of Gift

Describe the gifts in enough detail so that they may be easily identified.

If you list bonds, include in your description:

- The number of bonds transferred.
  - The principal amount of the bonds.
  - The name of the obligor.
  - The date of maturity of the bonds.
  - The rate of interest.
  - The date or dates on which interest is payable.
  - The series number (if there is more than one issue).
  - The exchange where the bond is listed.
- If you list stocks, you should include:
- The number of shares transferred.
  - Whether the stocks are common or preferred. (If the stocks are preferred, list the issue and par value.)
  - Quotation at date of gift.
  - Exact name of corporation.
  - Principal exchange where the stocks are sold.

If you list tangible personal property (such as a car), describe the property in enough detail so that its value can be accurately figured.

### Column (c)

#### Donor's Adjusted Basis of Gift

Show the basis you would use for income tax purposes if you sold or exchanged the property.

### Column (d)

#### Date of Gift

Enter the date of each gift listed.

### Column (e)

#### Value at Date of Gift

If you make the gift in property other than money, determine the value on the date of the gift.

## Consent

Your spouse must consent to split your gift with you. Your spouse gives his or her consent by signing in the space provided. You give your consent by signing in the space for donor's signature. The guardian of a legally incompetent spouse may sign the consent. The personal representative for a deceased spouse may sign the consent, if the spouse died after the close of the calendar year. While a properly-filed Form 709-A will not result in any tax liability, you should know that where a person consents to split gifts with their spouse, either or both persons are liable for any tax later determined to be due.

## INTERSTATE COMMERCE COMMISSION

### Agricultural Cooperatives; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: November 30, 1979.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

Complete Legal Name of Cooperative Association Or Federation of Cooperative Associations: (1) Midwestern Farm Lines, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): 2169 E. Blaine Street, Springfield, MO 65803.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 2169 E. Blaine Street, Springfield, MO 65803.

Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): Lawrence Marquette, 2169 E. Blaine Street, Springfield, MO 65803.

Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: (2) North American Beekeepers Association Cooperative.

Principal Mailing Address (Street No., City, State, and Zip Code): Star Route Box 1401, Melbourne, FL 32901.

Where Are Records Of Your Motor Transportation Maintained (Street No., City State and Zip Code): 21925 Garrison St., Dearborn, MI 48123, P.O. Box 2418.

Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): R. Allen CPA, Star Route Box 1401, Melbourne, FL 32901.

Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Red River Valley Potato Express, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): 2202 Gateway Drive, Grand Forks, ND 58201.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 2202 Gateway Drive, Grand Forks, ND 58201.

Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): Brett Lon Shane, 2202 Gateway Drive, Grand Forks, ND 58201.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37328 Filed 12-4-79; 8:45 am]  
BILLING CODE 7035-01-M

### [Decision No. 37228; Ex Parte 357]

#### Idaho Intrastate Freight Rates and Charges—1979

Decided: November 15, 1979.

By joint petition filed July 23, 1979, Union Pacific Railroad Company and Spokane International Railroad Company, railroads operating in intrastate commerce in Idaho, request that this Commission institute an investigation of Idaho intrastate freight rates and charges, under 49 U.S.C. 11501 and 11502. Petitioners seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 357. Petitioners have stated grounds sufficient to warrant instituting an investigation.

Petitioners filed an application on March 8, 1979, with the Idaho Public Utilities Commission to apply the rate increases authorized in Ex Parte No. 357 to the Idaho intrastate rates. A similar application was filed by the Camas Prairie Railroad Company on May 22, 1979. Both applications were denied by the Idaho Commission in an order served July 13, 1979.

On August 13, 1979, the Camas Prairie Railroad Company filed a motion for leave to intervene in this proceeding. The motion should be granted.

*It is ordered:* The petition for investigation is granted. An investigation, under 49 U.S.C. 11501 and 11502, is instituted to determine whether the Idaho intrastate rail freight rates and charges in any respect cause any unjust discrimination against or an undue burden on their interstate or foreign commerce operations, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in interstate of foreign commerce, or are otherwise unlawful, by

reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 357. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, maintained by petitioners should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the Federal Register publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

The motion of the Camas Prairie Railroad Company for leave to intervene in this proceeding is granted.

A copy of this decision shall be served upon petitioners, and copies shall be sent by certified mail to the Idaho Public Utilities Commission, and the Governor of Idaho. Further notice of this proceeding shall be given to the public by depositing a copy of this decision in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the Federal Register.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

By the Commission, Alan Fitzwater,  
Director, Office of Proceedings.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37328 Filed 12-4-79; 8:45 am]  
BILLING CODE 7035-01-M



[No. 37190; Ex Parte No. 357]

**Colorado Intrastate Rates**

Decided: November 19, 1979.

By petition filed May 16, 1979, The Denver and Rio Grande Railroad Company (Rio Grande) operating in intrastate commerce in Colorado, requests that this Committee institute an investigation of its Colorado intrastate freight rates and charges, under 49 U.S.C. 11501 and 11502. Rio Grande seeks an order authorizing it to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 357. Rio Grande has stated grounds sufficient to warrant instituting an investigation.

Petitioner filed an application on January 7, 1979, with the Public Utilities Commission of Colorado (PUC), to apply the rate increases authorized in Ex Parte No. 357 to the Colorado intrastate rates. By joint petition filed August 2, 1979, 9 railroads<sup>1</sup> operating intrastate in Colorado seek leave to intervene in support of Rio Grande. In a separate petition filed August 6, 1979, Union Pacific Railroad Company, seeks leave to intervene in this proceeding, or in the alternative, the institution of an investigation of the Colorado intrastate rates. All of applications before the PUC seeking rate increases pursuant to Ex Parte No. 357 were recently denied by final orders of PUC. Accordingly, this Commission has jurisdiction to investigate the matter pursuant to 49 U.S.C. 11501.

On August 10, 1979, the City of Colorado Springs, CO, filed a reply to the petitions to intervene. Replicant opposes the intervention of railroads other than the Rio Grande because they allegedly are unnecessary parties to the issues between the City of Colorado Springs and the Rio Grande concerning coal traffic transported by the Rio Grande. Petitioner and interveners seek intrastate rate increases on all commodities, not merely coal, and thus all intrastate rail carriers may be parties to the instant proceeding. The motion to deny intervention of other railroads will be denied.

Replicant refers to a recent decision of Review Board Number 4, No. 37506, *Colorado Intrastate Freight Rates and Charges—1978*, served September 17, 1979, in which the Board granted a

motion of the City of Colorado Springs to dismiss the proposed Ex Parte No. 349 increases on intrastate coal rates from Craig, CO, to Colorado Springs. In the instant proceeding replicant does not want this Commission to reconsider that issue. Thus, replicant objects to our consideration of the Ex Parte No. 349 rate increases previously sought on coal in No. 37056, *supra*. While petitioner has phrased the sought increase "at a level equal to the level prescribed by the Commission in Ex Parte 357 for similar services", the instant proceeding does not include the rate increases authorized in Ex Parte No. 349. Accordingly, replicant's motion to exclude consideration of the Ex Parte No. 349 rate increases will be granted.

*It is ordered:* The motion of the City of Colorado Springs is granted to the extent of excluding consideration of the Ex Parte No. 349 rate increases, and denied in all other respects.

The petition for investigation is granted. An investigation, under 49 U.S.C. 11501 and 11502, is instituted to determine whether the Colorado intrastate rail freight rates and charges in any respect cause any unjust discrimination against or any undue burden on their interstate or foreign commerce operations, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 357. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, maintained by petitioners should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

The joint petition of The Atchison, Topeka and Santa Fe Railway Company, Burlington Northern Inc., Chicago, Rock Island and Pacific Railroad Company, The Colorado and Southern Railway, The Colorado and Wyoming Railway Company, Missouri Pacific Railroad, San Luis Central Railroad Company, Southern San Luis Valley Railroad Company, and Union Pacific Railroad Company, and the separate petition of the Union Pacific Railroad for leave to intervene in this proceeding, are granted.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington,

D.C. 20423, on or before December 20, 1979. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this decision shall be served upon petitioners, and copies shall be sent by certified mail to the Colorado Public Utilities Commission, and the Governor of Colorado. Further notice of this proceeding shall be given to the public by depositing a copy of this decision in the Office of Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the Federal Register.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

By the Commission, Alan Fitzwater,  
Director, Office of Proceedings.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37327 Filed 12-4-79; 8:45 am]

BILLING CODE 7035-01-M

**Motor Carrier Temporary Authority Applications**

November 1, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall

<sup>1</sup>The Atchison, Topeka and Santa Fe Railway Company, Burlington Northern Inc., Chicago, Rock Island and Pacific Railroad Company, The Colorado and Southern Railway, The Colorado and Wyoming Railway Company, Missouri Pacific Railroad, San Luis Central Railroad Company, Southern San Luis Valley Railroad Company, and Union Pacific Railroad Company.

specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

#### Motor Carriers of Property

##### Notice No. 195

November 1, 1979.

MC 730 (Sub-476TA), filed September 21, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: R. N. Coolege (same address as applicant). *Jet fuel, in bulk, in tank vehicles*, from Moses Lake, WA to points in ID and MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Columbia Helicopter, Inc., P.O. Box 3500, Portland, OR 97208. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 2770 (Sub-23TA), filed September 7, 1979. Applicant: SANBORN'S MOTOR EXPRESS, INC., 550 Forest Avenue, Portland, ME 04101. Representative: Mary E. Kelley, 22 Stearns Avenue, Medford, MA 02155. *Common: Regular route: General Commodities*, with usual exceptions, between Hartford, CT and Scranton, PA; from Hartford over Interstate Highway 84 to Scranton, and return over the same route, serving the intermediate and off-route points in that part of PA on and east of a line beginning at MD-PA State line and extending along U.S. Highway 15 to junction U.S. Highway 11, then along U.S. Highway 11 to junction U.S. Highway 6; and on and south of U.S. Highway 6 from said junction of U.S. Highways 6 and 11 to the PA-NY State line in connection with carrier's otherwise authorized regular route operations in PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): NONE. Send protests to: Donald G. Weiler, District

Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 2860 (Sub-186TA), filed October 16, 1979. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Peter J. Nickles, 888 16th Street NW., Washington, DC 20006. (1) *Such merchandise as is dealt in and sold by retail, chain, grocery and department stores* (except commodities in bulk), from points in CT, DE, MA, NJ, NY, RI, MD (except points in Allegheny, Greene and Washington counties) and that part of PA north and east of a line beginning at the PA-MD state line, then along U.S. Hwy 522 to the junction of U.S. Hwy 322, then along U.S. Hwy 322 to junction of Interstate Hwy 80, then along Interstate Hwy 80 to the PA-OH state line, to points in FL; and (2) *General commodities*, over irregular routes, between points in CT, DC, DE, MD, MA, NJ, NY, PA and RI, for 180 days. Supporting shipper(s): There are 57 supporting shippers to this application: 21 support (1) and 36 support (2). They are on file in the Newark, NJ field office or Washington, DC. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 2960 (Sub-35TA), filed October 1, 1979. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, 2301 McKinney St., Houston, TX 77023. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. *Such commodities as are dealt in by business and office supply companies* from the facilities of United Stationers at or near Dallas, TX to New Orleans, LA and points in its Commercial Zone, for 180 days. Supporting shipper(s): United Stationers, 1701 S. First Ave., Maywood, IL 60153. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. Number 8610, Houston, TX 77002.

MC 4941 (Sub-73TA), filed October 11, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). *Common Carrier, Regular Route—General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading)* serving the facilities of Zayre Corp; at Madawaska and Presque Isle, ME as off-route points in connection with applicant's otherwise authorized regular-route operations, restricted to the transportation of traffic originating at or destined to the named facilities.

For 180 days. An underlying ETA seeks 90 days operating authority. Supporting shipper(s): Zayre Corporation, Rt. 6, Framingham, MA 01701. Send protests to: John B. Thomas, ICC, 150 Causeway Street, Boston, MA 02114.

MC 6031 (Sub-57TA), filed September 24, 1979. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 E. National Ave., Milwaukee, WI 53204. Representative: William C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract carrier; irregular routes, Coke*, from Milwaukee, WI to Cedar Rapids, Boone, Charles City, Des Moines, Dubuque, Marshalltown, Oskaloosa, Perry, Stockton and Waterloo, IA, and Albert Lea, Faribault, Red Wing and Egan, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Milwaukee Solvey Coke Co., P.O. Box 04546, Milwaukee, WI 53204. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 7381 (Sub-16TA), filed August 31, 1979. Applicant: WEBB'S TRANSFER, INC., County and Johnson Sts., Suffolk, VA 23434. Representative: Elliott Bunce, 1600 Wilson Blvd., Arlington, VA 22209. (1) *Compressed firelogs*, and (2) *related materials*, and *display racks*; in mixed or segregated loads with compressed fireplace logs (1) From Suffolk, Va. and Norfolk, VA and their commercial zones to points east of the Mississippi River; (2) between points east of the Mississippi River, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gold Kist Peanuts, a Division of Gold Kist, Inc. of Atlanta, Ga., P.O. Box 1629, 303 S. Saratoga Street, Suffolk, Va. 23434. Send protests to: Interstate Commerce Commission, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 8771 (Sub-61TA), filed October 15, 1979. Applicant: SAW MILL SUPPLY INC., 1018 Saw Mill River Road, Yonkers, NY 10710. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. (1) *Construction equipment, earth moving equipment, and material-handling equipment; and (2) attachments, accessories, and parts for the commodities named in (1) above*; between White Marsh, MD, on the one hand, and, on the other, points in the United States (except AK and HI); for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): JCB, Inc., 10939 Philadelphia Road, White Marsh, MD 21162. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce

Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 8771(Sub-62TA), filed October 12, 1979. Applicant: SAW MILL SUPPLY INC., 1018 Saw Mill River Road, Yonkers, New York 10710. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Machinery, machinery parts, contractors equipment, commodities which because of their size and weight require the use of special equipment and self-propelled vehicles weighing more than 15,000 pounds each*, from points and places in CT, DC, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, and VT, to points and places in the states of AL, AR, AZ, CA, FL, GA, IL, IN, KS, KY, LA, MI, MO, MS, NC, NM, OH, OK, SC, TN, TX, WI, and WV; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 19 supporting shippers. Their statements may be examined at the office listed below and headquarters. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 2900 (Sub-399TA), filed September 27, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408-R, Jacksonville, FL 32203. Representative: Paul Dixon (same as applicant). *Copper pipe or tubing from Sauget, IL to Vanderbilt, MI for 180 days*. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cerro Copper Products, Sauget, IL 62201. Send protest to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 20841 (Sub-11TA), filed September 5, 1979. Applicant: MARATHON FREIGHT LINES, INC., 340 South Styles Street, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. (1) *Foodstuffs (except in bulk)*, from the plantsite of the General Warehouse Corporation at Linden, NJ to points in CT with no transportation for compensation on return except as otherwise authorized; (2) Such commodities as are used by or sold in grocery or department stores (except furniture, foodstuffs, and commodities in bulk), from the plantsite of General Warehouse Corporation at Linden, NJ to points in CT with no transportation for compensation on return except as otherwise authorized; (3) Such commodities as are used by or sold in grocery or department stores (except furniture and commodities in bulk), from the plantsite of General Warehouse Corporation at Linden, NJ to points in Rockland and Orange Counties, NY with no transportation for compensation on return except as

otherwise authorized; (4) Returned shipments of such commodities as are dealt in by grocery or department stores (except commodities in bulk and furniture), from points in Rockland, Orange, Nassau and Suffolk Counties, NY and points in CT to the facilities of General Warehouse Corporation at Linden, NJ with no transportation for compensation on return except as otherwise authorized for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Warehouse Corporation, 340 South Styles Street, Linden, NJ 07036. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 28060 (Sub-61TA), filed September 4, 1979. Applicant: WILLERS, INC. d.b.a. WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, SD 57101. Representative: Bruce E. Mitchell and Martin W. Alpert, 3390 Peachtree Road, N.E., Atlanta, Ga 30326. *Such commodities as are dealt in or used by restaurant supply houses (except commodities in bulk)* from IL, MN and WI to the facilities of Hogg Restaurant Supply Service at or near Aberdeen, SD, for 180 days. Supporting shipper(s): Hogg Restaurant Service, 810 Third Avenue, SE., Aberdeen SD 57401. Send protest to: J. L. Hammond, DS ICC, Room 455, Federal Bldg. Pierre, SD 57501.

MC 41240 (Sub-23TA), filed September 18, 1979. Applicant: NELSON TRUCKING SERVICE INC., Mediapolis, IA 52637. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Iron and steel articles* from the Chicago, IL, commercial zone to Fort Madison, IA, for 180 days. Supporting shipper(s): Gleason Corporation, 1515 20th St., Ft. Madison, IA 52627. Send protest to: Herbert W. Allen, DS, ICC 518 Federal Bldg., Des Moines, IA 50309.

MC 43421 (Sub-65TA), filed September 13, 1979. Applicant: DOHRN TRANSFER COMPANY, 4016 9th Street, P.O. Box 1237, Rock Island, IL 61201. Representative: Walter J. Leahy (address same as applicant). (1) *Alcoholic Liquors in glass and/or bulk in barrels*, and (2) *Material and supplies used in manufacturing or sale of beverage products* between points in IL on the one hand and Bardstown, Clermont, Cox's Creek, Frankfort and Louisville, KY on the other for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hiram Walker & Sons, Inc., P.O. Box 470, Peoria, IL 61651. Send protest to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 51280 (Sub-2TA), filed September 10, 1979. Applicant: GRANTSBURG TRANSFER, INC., Route 1, Box 304, Grantsburg, WI 54840. Representative: Daniel R. Carlson (same address as applicant). (1) *Brass scrap, in bulk*, from Grantsburg, WI to Chicago, IL and points in its Commercial Zone; (2) *Steel* from Gary, IN and Chicago, IL and points in its Commercial Zone to Grantsburg, WI; (3) *Brass raw material* from Chicago, IL and points in its Commercial Zone to Grantsburg, WI; (4) *Crusher and safety screens* from the facilities of Durex, Inc. at Luck, WI to the facilities of Durex, Inc. at Windfall and Delphi, IN; and (5) *Wire steel* from Gary IN, Joliet and Chicago, IL and points in its Commercial Zone to the facilities of Durex, Inc. at Luck, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Durex, Inc., Luck, WI. Parker Hannifin Corporation, Quick Coupling Division, 8145 Lewis Road, Minneapolis, MN 55427. Send protest to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 59640 (Sub-76TA), filed September 19, 1979. Applicant: PAULS TRUCKING CORPORATION, 3 Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, 301 Blair Road, Woodbridge, NJ 07095. *Contract carrier, irregular routes for 180 days. Power lawn mowers and accessories, and equipment, supplies and component parts* used in the manufacture of power lawn mowers (except commodities in bulk), between Selma, AL, on the one hand, and, on the other, points in CA, FL, GA, IL, IN, MA, MD, MI, NC, NJ, NY, OH, OK, PA, SC, TX, VA, WI under a continuing contract(s) with Southland Mowers Company Inc., Selma, AL. Supporting shipper(s): Southland Mower Company, Inc., P.O. Box 347, Selma, AL 36707. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 61231 (Sub-161TA), filed September 28, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a., ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Ctr., Des Moines, IA 50309. *Building materials* from the facilities of Chicago Metallic Corporation at Chicago, IL, to points in AR, KY, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chicago Metallic Corporation, 4849 S. Austin Ave., Chicago, IL 60638. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 63871 (Sub-6TA), filed September 17, 1979. Applicant: ANDREWS AND PIERCE, INC., 1431 Beford Street, North Abington, MA 02351. Representative: Joseph M. Klements, 84 State Street, Boston, MA. *Common carrier* by motor vehicle, over irregular routes, in the transportation of *insulation* and *materials and supplies* used in the manufacture of insulation, in shipper's trailers, between the facilities of Bay State Gas Company in Lawrence, MA, on the one hand, and, on the other, points, in ME, NH, VT, CT, RI and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bay State Gas Company, 120 Royal St., Canton, MA. Send protests to: Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 70151 (Sub-60TA), filed October 3, 1979. Applicant: UNITED TRUCKING SERVICE, INC., 8505 West Warren Avenue, Dearborn, MI 48126. Representative: LaVergne L. Adsit, 8505 West Warren Avenue, Dearborn, MI 48126. *General commodities* (except those of unusual value, class A & B explosives, Household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment); between the facilities of the Chrysler Corporation, at or near St. Louis, MO, on the one hand and on the other, the facilities of USM Bailey Corporation, at or near Hopkinsville, KY; the facilities of Hoover Ball Bearing, Inc., and the facilities of Cadiz Spring, Inc., at or near Cadiz, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chrysler Corporation, 6334 Lynch Road, P.O. Box 1976, Detroit, MI 48288. Send protests to: C. R. Flemming, D/S, I.C.C., 201 Corr Building, 300 E. Michigan Ave., Lansing, MI 48933.

MC 69281 (Sub-53TA), filed August 6, 1979. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., 698 Fairmount Avenue, Baltimore, Maryland 21204. Representative: Henry J. Bouchat, P.O. Box 58, Baltimore, MD 21203. Authority sought to operate as a *common carrier* over regular routes, transporting: *General Commodities* (except those of unusual value, *classes A and B explosives*, *household goods as defined by the Commission*, *commodities in bulk*, and those requiring special equipment), (1) Between Baltimore, MD and Salisbury, MD; from Baltimore over MD Hwy 2 to junction U.S. Hwy 50, then over U.S. Hwy 50 to Salisbury, and return over the same route; (2) Between Baltimore, MD and Dover, DE; from Baltimore over MD Hwy 2 to junction US Hwy 50, then over US Hwy 50 to junction MD Hwy 404,

then over MD Hwy 404 to junction MD Hwy 313, then over MD Hwy 313 to junction MD Hwy 317, then over MD Hwy 317 to the MD-DE State Line, then over DE Hwy 14 to junction U.S. Hwy 13, then over U.S. Hwy 13 to Dover, DE, and return over the same route; serving all points in the States of MD and DE, east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal, as intermediate and off-route points in connection with the above routes, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack with existing authority at Baltimore, MD and common points in New Castle County, DE. Supporting shipper(s): None. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 77061 (Sub-25TA), filed October 1, 1979. Applicant: SHERMAN BROS., INC., 29534 Airport Road (Box 706), Eugene, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oregon 97205. *Lumber and lumber mill products* from Mendocino County, CA to Lane County, OR for 180 days: Supporting shipper(s): Oregon Industrial Lumber Products, P.O. Box 1413, Eugene, OR 97401. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 77061 (Sub-26TA), filed Oct. 11, 1979. Applicant: SHERMAN BROS., INC., 29534 Airport Road (Box 706), Eugene, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oregon 97205. *Iron and steel articles* between Lane and Multnomah Counties, OR and points in WA for 180 days. A corresponding ETA has been filed and a permanent will be filed in the immediate future. Supporting shipper(s): Gilmore Steel Corp., 30011 Leghorn, Eugene, OR 97402. Farwest Steel Corp., 2000 Henderson St., Eugene, OR. Clark's Sheet Metal, 660 Conger St., Eugene, OR 97402. Carothers Sheet Metal, P.O. Box 2748, Eugene, OR 97402. American Steel & Supply Co., 4200 N. W. Yeon, Portland, OR. Send protests to: A. E. Odoms, D/S, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 78400 (Sub-74TA), filed September 21, 1979. Applicant: BEAUFORT TRANSFER COMPANY, Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Component parts* used in the manufacture of *shoes* from Sullivan, MO to points in ME, NH, CT, MA and MY; and *materials and supplies* used in the manufacture of *shoe parts* in the reverse direction, for 180 days. An underlying ETA seeks 180 days authority. Supporting shipper(s): Meramec Industries, Inc., 338 Ramsey St., Sullivan, MO 63080. Send protests

to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 78400 (Sub-75TA), filed September 7, 1979. Applicant: BEAUFORT TRANSFER COMPANY, P. O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II 1301 Ambassador Bldg., St. Louis, MO 63101. (1) *Scrap vinyl and scrap plastic materials*, except in bulk, from Washington, MO to Lodi, NJ; (2) *Plastic film or sheeting*, other than cellulose, from Lodi, NJ to Washington, MO and (3) *Plastic coated cloth or fabric and plastic film or sheeting*, other than cellulose, from Lowell and Groveland, MA and Plainfield, CT to Washington, MO, for 180 days. An underlying ETA seeks 180 days. Supporting shipper(s): Hazel, Inc., 1200 S. Stafford, Washington, MO 63090. Send protests to: P. E. Binder, T/S, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 82841 (Sub-271TA), filed August 29, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "T" Street, Omaha, NE 68127. Representative: William E. Christensen, (same address as applicant). *Such commodities as are dealt in by agricultural equipment, industrial equipment, and lawn and leisure product dealers* (except *commodities in bulk*) from the facilities of Deere and Company located in Scott and Dubuque counties, IA to points in AZ, CA, KS, NV, and UT for 180 days. An underlying ETA seeks 90 days authority. Restricted to the transportation of traffic (except traffic moving in foreign commerce) originating at the named facilities of Deere and Company and destined to the destination points named. Supporting shipper(s): Deere and Company, John Deere Road, Moline, IL 61265. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 85970 (Sub-28TA), filed August 20, 1979. Applicant: SARTAIN TRUCK LINE, INC., 1354 N. Second, Memphis, TN 38107. Representative: Warren A. Goff, Suite 2008, 5100 Poplar Ave., Memphis, TN 38137. *General commodities, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and articles requiring special equipment*, for 180 days. Underlying ETA seeks 90 days authority. 1. Between Tiptonville, TN and Dyersburg, TN. From Tiptonville, TN over Tennessee Highway 78 to Dyersburg, TN, and return over the same route, serving all intermediate points. 2. Between Dyersburg, TN and Trenton, TN. From Dyersburg, TN over Tennessee Highway 104 to Trenton, TN, and return over the

same route, serving all intermediate points. From Dyersburg, TN over U.S. Highway 51 to Newbern, TN, then over Tennessee Highway 77 to Dyer, TN, then over U.S. Highway 45W to Trenton, TN, and return over the same route, serving all intermediate points. 3. Between Kenton, TN and Trenton, TN. From Kenton, TN over U.S. Highway 45W to Trenton, TN, and return over the same route, serving all intermediate points. 4. Between Dyersburg, TN and Nashville, TN. From Dyersburg, TN over Tennessee Highway 104 to Milan, TN, then over U.S. Alternate Highway 70 to Nashville, TN and return over the same route, serving no intermediate points. From Dyersburg, TN over U.S. Highway 51 to its junction with Tennessee Highway 20, then Tennessee Highway 20 to Jackson, TN, then over Interstate Highway 40 to Nashville and return over the same route, for operating convenience only, serving no intermediate points. Applicant intends to tack the authority herein applied for the other authority held by MC 85970 and Subs. Intends to tack at Dyersburg, TN and to interline with other carriers at Nashville, TN. Supporting shipper(s): There are approximately 40 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof may be examined at the field office named below. Send protests to: Mr. Floyd A. Johnson, Suite 2006, 100 N. Main Building Memphis, TN 38103.

MC 95540 (Sub-1137TA), filed October 2, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Rd., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, (same address as applicant). (1) *Such commodities as are dealt in by manufacturers, wholesalers, retailers and/or distributors of marine equipment* and (2) *materials, supplies, and equipment used in the manufacture and distribution of marine equipment* between points in OK, on the one hand, and, on the other, points in the U.S. for 180 days. Supporting shipper(s): Mercury Marine, Division of Brunswick Corp., 1 Brunswick Place, Skokie, IL 60076. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 95540 (Sub-1138TA), filed August 30, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Rd., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, (same address as applicant). (1) *Carpet or rug cushions, cushioning, lining, pads or padding*, and (2) *sound deadening materials* from Norwalk, Franklin and

Oregon, OH and Joliet, IL to Clinton, OK for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Collins & Aikman, Albemarle, NC. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 105461 (Sub-113TA), filed May 21, 1979. Applicant: HERR'S MOTOR EXPRESS, INC., P.O. Box 8, Quarryville, PA 17566. Representative: Robert R. Herr, (same as applicant). *Containers* from the facilities of Inland Steel Container, Greenville, OH to points in NY, PA, and NJ for 180 days. Supporting shipper(s): Inland Steel Container Co., 4300 W. 130th St., Chicago, IL 60658. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 105461 (Sub-114TA), filed September 10, 1979. Applicant: HERR'S MOTOR EXPRESS, INC., P.O. Box 8, Quarryville, PA 17566. Representative: Robert R. Herr, (same as applicant). (1) *Plumbing fixtures and fittings and bathroom accessories*, and (2) *equipment, materials and supplies used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk)* between New Castle, PA on the one hand, and on the other, points in NJ and NY for 180 days. Supporting shipper(s): CRF Fiberglass Corp., Commerce Drive—Shenango Industrial Park, New Castle, PA 16101. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Bldg., 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 106001 (Sub-14TA), filed August 20, 1979. Applicant: DENNIS TRUCKING CO., INC., 6951 Norwitch Dr., Philadelphia, PA 19153. Representative: James W. Patterson, 1200 Western Savings Bk. Bldg., Phila., PA 19107. *Iron and steel articles*, from the facilities of National Wire Products Corp. at Baltimore, MD to points in CT, MA, NH, NY, PA and VT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Wire Products Corp., Fisher Rd. & Penn Central R.R., Baltimore, MD 21222. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 106401 (Sub-72TA), filed September 27, 1979. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231. Representative: Roger W. Rash, (same as above). *Common carrier-Regular routes; General commodities, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment* serving the

facilities of Mississippi Power and Light Company at or near Port Gibson, MS and as off-route point in connection with carrier's otherwise authorized regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Applicant does intend to tack this authority with its MC-106401 and various subs. Applicant intends to interline with other carriers at Atlanta, GA, Charlotte, NC and other Johnson terminal points in GA, SC, NC, VA, MD, PA, DE, NJ, NY, CT, MA and RI on shipments destined or originating beyond Johnson's authorized territory. Supporting shipper(s): Mississippi Power & Light Company, PO Box 1640, Jackson, MS 39205. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 109891 (Sub-46TA), filed September 20, 1979. Applicant: INFINGER TRANSPORTATION COMPANY, INC., P.O. Box 7398, Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. *Steel wire* from Andrews, SC to points in Dade and Duval Counties, FL. Supporting shipper(s): Andrews Wire, P. O. Box 3, Andrews, SC 29510. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 110420 (Sub-840TA), filed September 19, 1979. Applicant: QUALITY CARRIERS INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: Michael V. Kaney, (same address as applicant). *Chocolate, chocolate and cocoa bean products, edible coating and flavoring compounds and liquid cocoa butter*, in bulk, from Milwaukee, WI to Seattle, WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ambrosia Chocolate Co., 1133 North 5th Street, Milwaukee, WI 53203. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 111231 (Sub-288TA), filed September 14, 1979. Applicant: JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, AR 72764. Representative: John C. Everett, P.O. Box A, Prairie Grove, AR 72753. *Lumber, pallets, and wood products, and materials, equipment and supplies* used by lumber manufacturers (except bulk materials in tank vehicles), between Washington County, AR on the one hand, and on the other, all points in KS, MO, OK, CO, AZ and TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Ozark Forest Products, Inc., 1819 W. 6th St., Fayetteville, AR 72701. Send protests to: William H. Land, DS,



3108 Federal Bldg., Little Rock, AR 72201.

MC 111401 (Sub-592TA), filed October 15, 1979. Applicant: GROENDYKE TRANSPORT, INC. 2510 Rock Island Blvd., Enid, Oklahoma 73701. Representative: Victor R. Comstock, P.O. box 632, Enid Oklahoma 73701. *Petroleum Lubricating Oil* in bulk, in tank vehicles, from Kansas City, KS, to points in WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Petroleum Company 149 Phillips Building Annex, Bartlesville, Oklahoma 74004. Send protest to: Connie Stanley, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 114211 (Sub-421TA), filed August 28, 1979. Applicant: WARREN TRANSPORT INC., P.O. Box 420, Waterloo, IA 50704. Representative: Representative: Adelor J. Warren, P.O. Box 420, Waterloo, IA 50704. *Tractor (except truck tractors), and attachments, parts, and equipment, designed for use with tractors in mixed loads with tractors.* From Harrison County, MS, to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, ND, OK, SD, TN, and WI. Restriction: The authority granted above is restricted to the transportation of traffic originating at the facilities utilized by International Harvester Company in Harrison County, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Harvester Company, 401 North Michigan Avenue, Chicago, IL 60611. Send protest to: Herbert W. Allen, DS, ICC, 518 Federal Bldg. Des Moines, IA 50309.

MC 114290 (Sub-91TA), filed October 12, 1979. Applicant: EXLEY EXPRESS, INC., 2610 S.E. 8th Avenue, Portland, OR 97202. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. *Resin-coated paper* requiring temperature control from Tacoma, WA, Roseburg and Medford, OR to Flagstaff, AZ, for 180 days. Supporting shipper(s): Reichhold Chemicals, Inc., 2340 Taylor Way, P.O. Box 1482, Tacoma, WA 98401. Send protest to: D. Merine Galbraith, T/A, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 114781 (Sub-5TA), filed September 27, 1979. Applicant: HAROLD H. WARFEL, R.D. #2, Peach Bottom, PA 17563. Representative: John W. Metzger, 49 Duke St., Lancaster, PA 17602. *Metal and metal scrap, zinc, zinc oxide, zinc dust, zinc dross, zinc residue, and zinc skimmings* in steamship containers having prior or subsequent move via water and empty steamship containers, and zinc, zinc oxide, zinc dust, zinc dross, zinc residue, and zinc skimmings

from Pittsburgh, PA and points within 35 miles of Pittsburgh, PA to Baltimore, MD and Philadelphia, PA and vice versa, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority sought herein with authority held under Docket MC 114781. Supporting shipper(s): St. Joe Zinc Company, 2 Oliver Plaza, Pittsburgh, PA 15222. Send protest to: L.C.C. Fed. Res. Bank Bldg., 101 N. 7th St. Rm. 620, Philadelphia, PA 19106.

MC 115311 (Sub-378TA), filed August 30, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, P.O. Box 56387, Atlanta, GA 30343. *Cement* from Ragland, AL to points in GA except points in Gwinnett, DeKalb, Fulton, Clay and Cobb Counties, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Cement Company, Inc., P.O. Box 7348, 110 Office Park Dr., Birmingham, AL 35223. Send Protests to: Sara K. Davis, T/A, ICC 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 115491 (Sub-139TA), filed October 1, 1979. Applicant: COMMERCIAL CARRIER CORPORATION, P.O. Box 67, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). (1) *Malt beverages and related advertising matter* from Albany, GA to points in FL and (2) *Materials, equipment and supplies used in the manufacture of malt beverages* from points in FL to Albany, GA for 180 days. Supporting shipper(s): Miller Brewing Company, 3939 Highland Blvd., Milwaukee, WI 53208. Send Protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33168.

MC 115821 (Sub-48TA), filed September 17, 1979. Applicant: FRANK BEELMAN, d.b.a. BEELMAN TRUCK CO., St. Libory, Illinois 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Missouri 63101. *Flue dust, in bulk, in dump vehicles,* from the plantsite of LaCled Steel Company at Alton, IL, to Galena, KS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): LaCled Steel Company, Equitable Building, St. Louis, Missouri 63102. Send Protests to: Annie Booker, TA, ICC, 219 South Dearborn, Room 1386, Chicago, IL 60604.

MC 116300 (Sub-63TA), filed October 11, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. *Sugar, and empty containers* between Reserve, LA and the

ports of Lake Charles and New Orleans, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Godchaux-Henderson Sugar Co., Inc., P.O. Drawer AM, reserve, LA 70084. Send protests to: Alan Tarrant, D/S, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St. Jackson, MS 39201.

MC 116300 (Sub-84TA), filed September 20, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. *Drag line mats* from the facility of Jones Lumber Co., Inc., in Walthall County, MS, to points in LA and TX, for 180 days. Supporting shipper(s): Jones Lumber Co., Inc., Rt. 1, Sandy Hook, MS 39478. Send protests to: Alan Tarrant, D/S, ICC, 100 W. Capitol St., Jackson, MS 39201.

MC 118831 (Sub-185TA), filed September 14, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller, III, P.O. Box 7007, High Point, NC 27264. *Liquid and dry bulk sugar in tank vehicles* from Atlanta, GA to TN, SC, NC, AL, FL & VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Godchaux-Henderson Sugar Co., 1530 16th St., Denver, CO 80202. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 118831 (Sub-186TA), filed September 10, 1979. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller, III, (same as above). *Liquid chemicals in bulk, in tank vehicles,* from the facilities of PPG Industries, Inc. at Lake Charles, LA, Beaumont, TX and La Porte, TX to points in the US (except HI and AK), for 180 days. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 119741 (Sub-236TA), filed September 20, 1979. Applicant: GREENFIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Ft. Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). *Petroleum products and lubricating oils (except in bulk)* from the facilities of Mobil Oil Corporation at or near Omaha, NE, to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Mobil Oil Corporation, 8350 N. Central Expressway—#522, Dallas, TX 75206. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-237TA), filed October 15, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative D. L. Robson (same address as applicant). *Frozen foods (except in bulk, in tank vehicles)* between the facilities of Frozen Food Distribution, Inc. at or near Louisville, KY, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, LA, MI, MS, MO, NC, OH, SC, TN, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Frozen Food Distribution, Inc., P.O. Box 19131, Louisville, KY 40219. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119991 (Sub-33TA), filed August 29, 1979. Applicant: YOUNG TRANSPORT, INC., P.O. Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 320 North Meridian Street, Indianapolis, IN 46204. *Iron and Steel articles*, from Alton, Joliet and Kankakee, IL to points in IA, IN, KS, KY, MI, MO, NE, OH, PA, WI and WV, for 180 days. Supporting shipper: Ambassador Steel Corporation, 3415 South LaFontaine, Kokomo, IN 46901. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 120451 (Sub-2TA), filed August 28, 1979. Applicant: HUBBARD MOVERS, INC., 199 East Broadway, Gardner, MA 01440. Representative: Kenneth E. Miller, 838 West Broadway, Gardner, MA 01440. *New furniture and furniture parts, cartoned and uncartoned*, between points in ME, MA, NH and VT, for 180 days. An underlying ETA seeks ninety days authority. Supporting shipper: There are 11 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 120910 (Sub-26TA), filed September 5, 1979. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Tires*, between the facilities of B.F. Goodrich Tire Company, at or near Tuscaloosa, AL, on the one hand, and, on the other, facilities of B.F. Goodrich, at or near Columbus, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: B.F. Goodrich Tire Company, P.O. Box 1010, Tuscaloosa, AL 35401. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 121470 (Sub-38TA), filed Sept. 18, 1979. Applicant: TANKSLEY TRANSFER CO., 801 Cowan St., Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). *Fabricated steel, dust collectors, and water pollution equipment*, from the facilities of Carborundum Co. located at or near Knoxville, TN, to points, in AL, MS, GA, NC, SC, KY, IL, IN, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Carborundum Co., P.O. Box 1269, Knoxville, TN 37901. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 121821 (Sub-3TA), filed September 10, 1979. Applicant: TENNESSEE MOTOR LINES, INC., 402 Maplewood Ave., Nashville, TN 37210. Representative: Edward C. Blank, II, 805 South Garden St., Columbia, TN 38401. *Common carrier: regular routes: General commodities except Class A and B explosives, household goods as defined by the Commission and commodities in bulk and commodities requiring special handling.* (1) Between Nashville and Tiptonville, TN, serving all intermediate points as hereinafter set forth: TN Hwy 1, Nashville to Huntingdon, thence over 77 to Atwood, thence over 76 to Humboldt, but not including Humboldt, serving all intermediate points in Gibson County; from Milan over TN Hwy 77 to Trenton, thence over Hwy 104 to Dyersburg, thence over 78 to Tiptonville, and return. Also, from Tiptonville over Hwy 21 to the Lake-Obion County Line, and return; from Dyersburg over TN Hwy 3 to the Dyer-Obion County Line, and return; between Newbern and Dyer over Hwy 77; from Trenton over TN Hwy 5 to the Gibson-Obion County Line, and return; from Milan over TN Hwy 43 to the Gibson-Weakley County Line, and return; between Trenton and Bradford over TN Hwy 54; from Dyersburg over TN Hwy 3 to junction TN Hwy 20, thence over 20 to junction TN Hwy 54, thence over 54 to Brownsville, but not including Brownsville, and return; from junction TN Hwys 54 and 20, via 20 to Bells, but not including Bells, and return. Limited so as to operate with closed doors between Nashville and the Carroll-Gibson County Line, but serving all other intermediate points unless otherwise specified. (2) From Humboldt, TN to Bells, TN, over TN Hwy 76, and return, and between Trenton and Alamo, TN over TN Hwy 54, and return, both routes to be used for operating convenience only, serving no points except Alamo as now authorized, and to be used in connection with carrier's

previously existing authority. (3) The above service to be operated from Nashville, TN, over Interstate Highway 40 to the Junction of Tennessee Highway 20 and return with authority to enter, leave and re-enter said Interstate Highway 40 at such interchanges, crossings and traversing such highways as is necessary to connect with its other authorized routes, to be used for operating convenience only and serving no points except as presently authorized, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: There are fifty-three (53) shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 123640 (Sub-30TA), filed September 25, 1979. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maumee Avenue, Fort Wayne, IN 46803. Representative: Irving Klein, 371—Seventh Avenue, New York, NY 10001. *Contract carrier: Irregular routes: Such commodities as are sold or dealt in by wholesale hardware houses* between Cape Girardeau, MO, on the one hand, and points in Virginia on the other, under a continuing contract with Hardware Wholesalers, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hardware Wholesalers, Inc., P.O. Box 868 Nelson Road, Ft. Wayne, IN 46801. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 124111 (Sub-63TA), filed August 23, 1979. Applicant: OHIO EASTERN EXPRESS, INC., 300 W. Perkins Ave., Sandusky, OH 44870. Representative: David A. Turano, Suite 1800, 100 E. Broad St., Columbus, OH 43215. *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and 766 (except commodities in bulk) from the facilities of Selected Meats Co. at or near Dayton and Lewisburg, OH to points in and east of WI, IL, KY, TN and MS for 180 days. Supporting shipper: Selected Meats Co., P.O. Box 1489, Sandusky, OH 44870. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 124111 (Sub-64TA), filed August 30, 1979. Applicant: OHIO EASTERN EXPRESS, INC., 300 W. Perkins Avenue, Sandusky, OH 44870. Representative: David A. Turano, Suite 1800, 100 E. Broad St., Columbus, OH 43215. (1) *Frozen bread*, from Bedford Heights, OH to points in CT, DE, MD, MA, NJ, NY,



PA, RI, VA; and (2) *salad dressings, croutons and popcorn* from Columbus, OH to points in CT, DE, MD, NJ, NY, PA, RI, VA, for 180 days. Supporting shipper: Lancaster Colony Corp., 37 W. Broad St., Columbus, OH 43215. Send protests to: ICC, Fed. Red. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 124151 (Sub-12TA), filed October 15, 1979. Applicant: VANGUARD TRANSPORTATION, INC., Lafayette Street, Carteret, NJ 07008. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. *Industrial chemicals*, in bulk, in tank vehicles, from Bayonne, NJ and points in its commercial zone to points in PA, NY, NC, IL, WV, OH and NH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Filo Chemical Corporation, 10 E. 40th Street, New York, NY 10016. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 124230 (Sub-40TA), filed October 4, 1979. Applicant: C. B. JOHNSON, INC., P.O. Drawer S, Cortez, CO 81321. Representative: David E. Driggers, Suite 1600, 1660 Lincoln Street, Denver, CO 80203. *Coal, in bulk*, from points in San Miguel County, CO to points in San Juan County, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Tri-Island Land & Cattle Co., Mining and Mineral Division, Inc., P.O. Box 431, Naturita, CO. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 124711 (Sub-98TA), filed October 18, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Rod Parker (same as above). *Liquid paint and liquid paint thinner*, in bulk, in tank vehicles from Ameron Industrial Coating Division, Wichita, KS, to Norfolk, NE, St. Joseph, IN, Grapeland, TX, Guymon, OK and Little Rock, AR, for 180 days, common, irregular; Supporting shipper: Ameron Industrial Coating Division, 16116 E. 13th, Wichita, KS 67201. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 124821 (Sub-63TA), filed September 10, 1979. Applicant: GILCHRIST TRUCKING INC., 105 North Keyser Corp., Old Forge, PA 18158. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Boards, building, wall or insulating; and accessories for the installation thereof*, from the facilities of Celotex Corp. at or near Pittston, PA to points in OH, IN and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jim Walter Corp.,

1500 N. Dale Mabry, Tampa, FL 33607. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 125561 (Sub-3TA), filed September 24, 1979. Applicant: SUNNYSIDE TRANSFER, INC., P.O. Box 528, Sunnyside, WA 98944. Representative: Robert Gerald Sanders, P.O. Box 528, Sunnyside, WA 98944. Common, regular, *general commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and commodities which because of size or weight, require special equipment). Between Yakima, WA and Walla Walla, WA serving all intermediate points and the offroute points of Moxee City, Harrah, White Swan, Ice Harbor Dam and College Place; and including the commercial zones of each, over regular routes; (1) from Yakima over U.S. Highway 12 to Walla Walla and return over the same route; (2) from Yakima over U.S. 97 to its junction with WA Hwy 22 at or near Toppenish, WA and then over WA Highway 22 to its junction with U.S. Highway 12 at or near Prosser, then over U.S. Highway 12 to Walla Walla and return over the same route. *Restriction*: The service to be performed shall be limited to traffic move (1) under freight forwarder bills of lading for 180 days. A temporary authority R-2 was granted 9/21/79, expires 12/19/79 and a permanent will be filed within 60 days. Supporting shipper(s): Clipper Express, E. 800 Front Ave., Spokane, WA 99202. Coast Carloading Co., 3200 Occidental S., Seattle, WA. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, 114 Pioneer Courthouse, Interstate Commerce Commission, Portland, Oregon 97204.

MC 128951 (Sub-29TA), filed October 17, 1979. Applicant: ROBERT H. DITTRICH, d.b.a. BOB DITTRICH TRUCKING, 1000 N. Front St., New Ulm, MN 56073. Representative: Rodney H. Jeffery (same address as applicant). *Feed and feed ingredients, in bulk, in tank vehicles*, between New Ulm, Blue Earth, Austin, and points in the Minneapolis-St. Paul, MN Commercial Zone and points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Knappen Molasses Co., 2225 Childs Rd., St. Paul, MN 55106. Tri-State Grease and Tallow, 1220 S. Valley, New Ulm, MN 56073. Agri Trading Corp., Box 457, Hutchinson, MN 55350. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Mpls., MN 55401.

MC 129631 (Sub-72TA), filed September 28, 1979. Applicant: PACK

TRANSPORT, INC., 3975 South 300 West, Salt Lake City, UT 84107. Representative: G. D. Davidson (same address as applicant). *Iron and steel articles* as described in Appendix V to the Report of the Commission in Ex Parte No. 45, *Descriptions in Motor Carrier Certificates*, 61 MCC 209, between Pocatello, ID, on the one hand, and, on the other, points in and north of Idaho County, ID, and points in MT, for 180 days. Note: Applicant proposes to tack this authority with that held in its MC-129631 Sub. No. 38. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are seven statements of support attached to this application which may be examined at the ICC office in Washington, DC or copies of which may be examined in the field office named below. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 134150 (Sub-22TA), filed Sept. 10, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC. d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Contract carrier: irregular routes: Paper products, and materials and supplies used in the manufacture thereof*, from the facilities of Container Corp. of America at or near Dallas and Ft. Worth, TX to points in AZ, CA, OR, ID, WA, MT, WY, CO, NM, UT & NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Container Corp. of America, 6701 South Freeway, Fort Worth, TX 76101. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 134300 (Sub-43TA), filed October 3, 1979. Applicant: TRIPLE R EXPRESS, INC., 498 First St., NW, New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 N. 5th St., Minneapolis, MN 55403. *Games and toys, recreation equipment and materials and supplies used in the manufacture and distribution of games and toys and recreation equipment* between the facilities of Schaper Manufacturing Company at or near Minneapolis, MN, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, AR and LA, for 180 days. Supporting shipper(s): Schaper Manufacturing Co., 9909 So. Shore Dr., Minneapolis, MN 55441. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 134501 (Sub-65TA), filed September 10, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 1050, Irving, TX 75061.

Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *Kitchen furniture, fixtures, equipment, and supplies* (except foodstuffs), from the facilities of Hockenberg International, Inc., at Des Moines, IA and St. Louis, MO to points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hockenberg International, 2300 Bell Ave., Des Moines, IA 50308. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134501 (Sub-66TA), filed September 4, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, Texas 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, Oklahoma 73034. *New furniture*, from the facilities of Trend Line Furniture, Inc., at or near Conover, Maiden, Lincolnton, NC, to points in AL, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, VT, VA, WV, WI, and TN (Except Shelby County, TN), for a period of 180 days. Underlying ETA seeks 90 days of operating authority. Supporting shipper(s): Trend Line Furniture, Inc., P.O. Box 188, Hickory, NC 28601. Send protests to: Opal Jones, Trans. Consumer Spec., I.C.C., Room 9A27, Federal Bldg., 819 Taylor St., Ft Worth, TX 76102.

MC 134501 (Sub-67TA), filed August 29, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *New store fixtures* from the facilities of Goer Manufacturing Company, Inc., at or near Charleston Heights, SC to points in AL, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TX, VT, VA, WV, WI, and TN (except Shelby County, TN) for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Goer Manufacturing Company, Inc., P.O. Drawer E, Charleston Heights, SC 29405. Send protests to: Opal M. Jones, TCS, I.C.C., 819 Taylor St., 9A27 Federal Bldg., Fort Worth, TX 76102.

MC 134790 (Sub-8TA), filed September 11, 1979. Applicant: DANIEL C. HAFFNER, d.b.a. HAFFNER TRUCKING SERVICE, R. R. 1, Farmington, IA 52626. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Railway car and locomotive wheels, iron or steel, loose or mounted on axles, with or without bearings*, from Keokuk, IA, to points in LA, OH, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin

Wheel Company, Division of Amsted Industries, Inc., 200 West Monroe St., Chicago, IL 60606. Send protest to: Herbert W. Allen, DS, ICC 518 Federal Bldg., Des Moines, IA 50309

MC 135070 (Sub-112TA), filed August 15, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, 720 North Grand, Amarillo, TX 79120. Representative: Gailyn L. Larsen, 137 NW 17th P.O. Box 82816, Lincoln, NE 68501. *Foundry supplies* from Los Angeles, CA; Colony, WY; Sioux Falls, SD; Enid, OK; Vendalia, MO; Aurora, Chicago Heights, Chicago, and Oregon, IL; Indianapolis and Mishawaka, IN; Toledo, Columbus, Ashtabula, and Marietta, OH; Muse, Port Kennedy, Pittsburgh, PA; Baltimore, MD; Alloy, WV; Bedored, VA; Aberdeen, MS; Birmingham, Sheffield, and Letohatchee, AL to points in TX and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Industrial Park Supply, 33rd Street at No. Sylvania, P.O. Box 7615, Fort Worth, TX 76111. Send protest to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 136080 (Sub-5TA), filed September 25, 1979. Applicant: ELIZABETH S. & BERNIE L. LAFOE, d.b.a. E. S. LAFOE, RFD 1, Route No. 7, Ferrisburg, VT 05456. Representative: Norman A. Cooper 145 W. Wisconsin Avenue, Neenah, WI 54956. *Bakery Products*, from the facility of Koffee Kup Bakery, Inc. at Burlington, VT to points in MA and NH, under contract(s) to Koffee Kup Bakery, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Koffee Kup Bakery, Inc., 436 Riverside Avenue, Burlington, Vermont 05401. Send protest to: Interstate Commerce Commission, 87 State Street, Room 303, P.O. Box 548, Montpelier, VT 05602.

MC 136511 (Sub-79TA), filed August 27, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Rd., Lynchburg, VA 24052. Representative: Dwight L. Koerber, Inc., 805 McLachlen Bank Bldg., 666 Elventh St. NW., Washington, DC 20001. *Apple juice, apple sauce, apple butter, apple vinegar, and apple slices*, from Winchester, Timberville, VA, Martinsburg, WV and Lincolnton, NC to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Fruit Product Co., Inc., P.O. Box 2040, Winchester, VA 22601. Send protest to: I.C.C. Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 136830 (Sub-2TA), filed Oct. 1, 1979. Applicant: DARRELL

SORENSEN, d.b.a. DARRELL SORENSON TRANSPORTATION CO., P.O. Box 311, Centralia, WA 98531. Representative: Philip G. Skofstad, 1525 N. E. Weidler St., Portland, OR 97232. *Contract, irregular, Frozen, packaged meat*, from the facilities of Peerless Food Products Co., in Chehalis and Seattle, WA to Alameda, CA for 180 days. A corresponding ETA was granted 9/28/79 for 90 days. Supporting shipper(s): Kennedy Sales and Service, d.b.a. Peerless Food Products Co., P.O. Box 1144, Chehalis, WA 98532. Send protests to: D. Merine Galbraith, TA, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 138741 (Sub-94TA), filed September 21, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Common carrier-irregular, iron and steel articles* between Little Rock, AR on the one hand, and the other hand points in IA, IL, IN, KY, MO, NE, OK, TN, TX. Underlying ETA seeks 90 day authority for 180 days. Supporting shipper(s): Merco Manufacturing, 7520 Enmar Dr., Little Rock, AR 72209. Send protests to: Jacquelyn L. Banks, TA, ICC, 219 South Dearborn St., Chicago, IL 60604.

MC 138741 (Sub-95TA), filed September 10, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. (1) *Roofing and building materials and supplies* (except in bulk), from the facilities of the Masonite Corporation at Little Rock, AR to points in AL, GA, LA, ME, NE, OH and that portion of TX on and east and North of a line beginning at the OK-TX state line, then over U.S. Hwy. 281 to Mineral Wells, TX, then over U.S. Hwy. 80 to the TX-LA state line, and Houston, TX, and; (2) *Roofing granules*, from Annapolis, MO to Little Rock, AR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Masonite Corporation, P.O. Box 1300, Little Rock, AR 72203. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn, Room 1386, Chicago, IL 60604.

MC 138741 (Sub-96TA), filed September 17, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Iron and steel articles*, from the facilities of Blake Steel Service, Inc., at or near Middletown, OH, to points in AR, IL, IN, IA, KY, MI, MO and TN for 180 days. An

underlying ETA seeks 90 days authority. Supporting shipper(s): Blake Steel Service, Inc., 1211 Hook Drive, Box 446, Middletown, Ohio 45042. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn, Room 1386, Chicago, IL 60604.

MC 138741 (Sub-97TA), filed September 17, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Iron and steel articles*, from the facilities of Southwestern Ohio Steel, Inc., in or near Butler County, OH, to points in AL, AR, GA, IL, IN, IA, KY, LA, MI, MO, MS, TN, TX, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southwestern Ohio Steel, Inc., 903 Belle Avenue, Hamilton, OH 45012. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn, Room 1386, Chicago, IL 60604.

MC 139821 (Sub-7TA), filed October 5, 1979. Applicant: HAUGEN TRANSIT, INC., Route 2A, Madelia, MN 56062. Representative: William L. Libby, 1455 3rd St., SE, Room 307C, St. Cloud, MN 56301. *Contract carrier: irregular routes: Feed ingredients* from Mankato, MN to points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Archer Daniels Midland Co., P.O. Box 728, Mankato, MN 56001. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 140011 (Sub-7TA), filed October 15, 1979. Applicant: A. C. DENNLER CO., 13023 Arroyo Avenue, San Fernando, California 91340. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, Pennsylvania 18517. *Contract; Irregular; Masonry supplies*; from the facilities of Laticrete International, Inc., Bethany, CT., to Denver, Colorado Springs, CO., Salt Lake City, Orem, Utah, Las Vegas, NV, Portland, OR, Seattle, WA, Oklahoma City, Tulsa, OK, Des Moines, Davenport, IA, Lincoln & Omaha, NE, Albuquerque, NM, Phoenix, AZ, Los Angeles, San Francisco, Sacramento, San Diego, Salinas, Visalia & San Luis Obispo, CA., for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Laticrete International, Inc., Manager FTA, P.O. Box A. F., Woodbridge, CT 06525. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 140161 (Sub-1TA), filed September 26, 1979. Applicant: CARDINAL TRUCKING CORPORATION, 737 N. 3rd Ave., East, Newton, IA 50208. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA

50309. *General commodities (except those of unusual value, Classes A and B explosives, household goods, and those requiring special equipment)* between Newton and Des Moines, IA, restricted to traffic having a prior or subsequent movement by rail trailer-on-flatcar service, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Maytag Company, Newton, IA 50208. Send protests to: Herbert W. Allen, DS, ICC 518 Federal Bldg., Des Moines, IA 50309.

MC 140231 (Sub-9TA), filed September 17, 1979. Applicant: LUMBER DISTRIBUTORS, INC., Building 149, Marsh Street, Southside, Port Newark, NJ 07114. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Salt and salt products (except in bulk)* between Newark, NJ, on the one hand, and, on the other, points in CT, RI, MA, NH, VT, ME, NJ, NY, PA, DE, DC, MD, VA, WV and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Crystal Salt Company, 916 S. Riverside Avenue, St. Clair, MI 48079. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 140601 (Sub-18TA), filed September 7, 1979. Applicant: BILLY FRANK d.b.a. FRANK BROS., 349 Abbott Avenue, Hillsboro, TX 76845. Representative: Charles E. Munson, 500 West Sixteenth St., P.O. Box 1945, Austin, TX 78767. *Contract, Irregular, (1) Plastic Pipe, and fittings and accessories for plastic pipe*, from Waco, TX to points in the United States (except AZ, AR, CA, KS, LA, MS, NM, OK, TN, TX, AK and HI); and (2) *Materials, equipment and supplies (except commodities in bulk)* used in the manufacture of the commodities named in (1) above in the reverse direction. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with CertainTeed Corporation of Valley Forge, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): CertainTeed Corporation, P.O. Box 8035, 501 Old Hewitt Rd., Waco, TX. Send protests to: Martha Powell, TCS, Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 141061 (Sub-1TA), filed October 12, 1979. Applicant: J. B. DAVENPORT, d.b.a. DAVENPORT WRECKER SERVICE, 190 Eastman Rd., Memphis, TN 38109. Representative: William R. Swain, Jr., 208 Poplar Avenue, Memphis, TN 38103. *Wrecked and disabled motor vehicles and trailers (Other than house trailers and trailers designed to be*

*drawn by passenger automobiles) and replacement vehicles and trailers of the same type or types using wrecker equipment only*, between points in Shelby County, TN, on the one hand, and, on the other, points in AL, AR, KY, LA, MO, TX and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Saunders Leasing Systems, Inc., 517 E. Brooks Rd., Memphis, TN 38116; Ryder Truck Rental, Inc., 4121 Delp, Memphis, TN 38118; Shelton Truck & Trailer Service, Inc., 1029 Channel Avenue, Memphis, TN, 38113. Send protests to: Interstate Commerce Commission 100 North Main Building, 100 North Main St., Suite 2006, Memphis, TN 38103.

MC 141940 (Sub-5TA), filed September 25, 1979. Applicant: R. B. BATOR TRUCKING, INC., Route 116, Cheshire, Massachusetts 01225. Representative: Richard B. Bator (same as applicant). *Ground limestone in bulk*, from Adams, MA to Burlington, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pfizer Inc., Manager, P.P.I.C., 260 Columbia Street, Adams, MA. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 142181 (Sub-13TA), filed October 1, 1979. Applicant: LIBERTY CONTRACT CARRIER, 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract carrier: irregular routes: Non ferrous scraps*, between points in AL, AR, CO, GA, IL, IN, IA, KA, KY, LA, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI, under contract with Metal Processors, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Metal Processors, Inc., 16100 Chesterfield Village Parkway, Suite 270, Chesterfield, MO 63017. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 142850 (Sub-3TA), filed September 25, 1979. Applicant: DICK SIMON TRUCKING, INC., 9541 South 5250 West, West Jordan, UT 84084. Representative: Irene Warr, 430 Jedge Building, Salt Lake City, UT 84111. *Contract carrier: Irregular route: (1) Frozen fruits* from the facilities of Payson Fruit Growers Association at or near Payson, UT to PA, NY, MI, OH, TN, VA, TX, NJ, and IL and (2) *materials and supplies used in the packaging and distribution of frozen fruits*, in the reverse direction, under a continuing contract(s) with Payson Fruit Growers Association, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Payson Fruit

Growers Association, P.O. Box 187, Payson, UT 84651. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 142920 (Sub-6TA), filed August 31, 1979. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver Street, Indianapolis, IN 46221. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Contract Carrier: Irregular routes: *Such commodities as are dealt in or used by manufacturers, and distributors of sound, communications, educational, and entertainment materials (except commodities in bulk)*, (1) between points in CT, NY, NJ and CA on the one hand and, on the other, points in IN and IL, (2) between points in CT on the one hand and, on the other, points in NJ, (3) between points in CA on the one hand and, on the other, points in CT, NY and NJ for 180 days, under contract with CBS, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: CBS, Inc., 51 W. 52nd St., New York, NY 10019. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 143471 (Sub-18TA), filed September 4, 1979. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 301 Mt. Rushmore Road, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. Contract carrier: irregular routes: *lumber, plywood, particle board, beams, wood, built-up, shingles, shakes, and bark products* from points in OR to points in IA, IL, MN, NE, ND, SD, WI & WY for the account of Bohemia, Inc. for 180 days. Supporting shipper(s): Bohemia, Inc., 2280 Oakmont Way, Eugene, OR 97440. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 143621 (Sub-33TA), filed September 18, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave., North, Nashville, TN 37219. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. *Cement, except in bulk in tank vehicles*, from the facilities of the Marquette Co., a wholly-owned subsidiary of Gulf and Western (1) at Cowan, TN, and its commercial zone, to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, NC, OH, SC, TN, and VA, and (2) at Nashville, TN, and its commercial zone, to points in AL, GA, IL, IN, KY, MS, MO, NC, SC, TN, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Marquette Co., 2200 First American Center, Nashville, TN 37283. Send protests to: Glenda Kuss, TA, ICC, Suite

A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-35TA), filed Oct. 3, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Avenue, North, Nashville, TN 37219. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. *Cross ties*, from McKinnon, Hohenwald, Lobelville, Huntington, Henderson, Grand Junction, Selmer, and Savannah, TN and Cadiz, KY to Madison, IL and Indianapolis, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr-McGee Chemical Corp., Kerr-McGee Center, P.O. Box 25861, Oklahoma City, OK 73125. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-36TA), filed Oct. 1, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave., North, Nashville, TN 37219. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. *Cross ties*, from the facilities of Kerr McGee Chemical Corp., at or near Selmer and Savannah, TN to the facilities of Kerr McGee Chemical Corp., at or near Columbus, MS, for 180 days. Supporting shipper(s): Kerr-McGee Chemical Corp., Kerr McGee Center, P.O. Box 25861, Oklahoma City, OK 73125. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-37TA), filed Sept. 4, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Avenue, North, Nashville, TN 37219. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. *Iron and steel articles and materials, equipment, and supplies used in the manufacturing, processing, and distribution of iron and steel articles*, between the facilities of Production Steel, Inc. at or near Knoxville, TN, on the one hand, and on the other, points, in AL, AR, GA, IN, WV, IL, KY, LA, MO, MS, NC, NY, OH, PA, SC, TN, and VA, for 180 days. Supporting shipper(s): Production Steel, Inc., 5300 South National Drive, Knoxville, TN 37914. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, Nashville, TN 37203.

MC 144061 (Sub-10TA), filed October 15, 1979. Applicant: SICOMAC CARRIERS, INC., 347 Sicomac Avenue, Wyckoff, NJ 07481. Representative: Jack L. Schiller, 345 Webster Avenue, Brooklyn, NY 11230. Contract, irregular. *Vegetable oils* in bulk from the facilities of Capital City Products Co., Division of Stokely-Van Camp, Inc., located at or

near Guttenburg, NJ to points in DE, GA, IL, IN, MD, MI, MN, MO, NY, NC, OH, PA, SC, TN, TX and WI. *Vegetable oils* in bulk from the facilities of Capital City Products Co., Division of Stokely-Van Camp, Inc., located at or near Columbus, OH to the facilities of Capital City Products Co., Division of Stokely Van-Camp, Inc., located at or near Guttenburg, NJ. *Vegetable oils* in bulk from points in AR, GA, IA, KY, LA, TN and WI to the facilities of Capital City Products Co., Division of Stokely-Van Camp, Inc., located at or near Columbus, OH and Guttenburg, NJ. Condition: The above traffic is restricted to service to be performed under a contract or continuing contracts with Capital City Products Co., Division of Stokely-Van Camp, Inc., of Columbus, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Capital City Products Co., Division of Stokely Van-Camp, Inc., P.O. Box 569, Columbus, OH 43216. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144121 (Sub-2TA), filed September 4, 1979. Applicant: LARRY'S EXPRESS, INC., 720 Lake St., Tomah, WI 54660. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. (a) *Uncrated stoves and heating units*, and (b) *materials, equipment and supplies used in the manufacture and distribution of such commodities*, from Galesville, Ettrick, Tomah and West Salem, WI to points in the U.S. (except AK & HI), restricted to transportation originating at or destined to the facilities of E. K. Industries, Div. of Gale Marble, Inc. and Therm-Kon Products, Inc., Galesville & Ettrick, WI, Slumbering Giant, Inc., West Salem, WI & Energy Research & Dev. Corp., Tomah, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. K. Industries, Div. of Gale Marble, Inc., & Therm-Kon Products, Inc., Galesville, WI 54630, Slumbering Giant, Inc., 168 S. Leonard St., West Salem, WI 54669, and Energy Research & Dev. Corp., Tomah, WI 54660. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 144140 (Sub-41TA), filed September 17, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 158, Eustis, FL 32726. Representative: John L. Dickerson, P.O. Box 158, Eustis, FL 32726. (1) *Foodstuffs* and (2) *Materials, supplies and equipment* used in the manufacturing and distribution of foodstuffs (except commodities in bulk) between points in the United States in and east of IA, KS, MN, MO, OK, and TX, restricted to traffic originating at or destined to the

facilities of Douglas Foods, Inc. located at or near Douglas, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Douglas Foods, Inc., P.O. Box 1208, Douglas, GA 31533. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144621 (Sub-13TA), filed September 28, 1979. Applicant: CENTURY MOTOR LINES, INC., P.O. Box 15246, 12720 East Garry Avenue, Santa Ana, CA 92705. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of MBPXL Corporation, at or near Plainview, TX, to points in LA, MS, TN, AL, FL, GA, NC, and SC, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): MBPXL Corporation, Vice President & Director of Transportation, 2901 North Mead, Wichita, KS 67201. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 144901 (Sub-3TA), filed August 27, 1979. Applicant: INTERMODAL SYSTEMS, INC., 4740 Roanoke Parkway, Kansas City, MO 64112. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. Authority is sought to operate as a *common* carrier, by motor vehicle, over irregular routes, transporting: General Commodities (except commodities in bulk, in tank vehicles, Class A and B explosives, household goods as defined by the Commission, and commodities which, because of size or weight, require the use of special equipment) between points in AR, CA, KS, KY, LA, MS, MO, OK, TN and TX. *Restricted* to shipments which either originate at or are destined to points in CA and which involve substitution of trailer-on-flat-car service for a portion of the through movement, for 180 days. Supporting shipper(s): There are more than 60 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the Field Office named below. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106. An underlying ETA seeks 90 days authority.

MC 145071 (Sub-5TA), filed August 17, 1979. Applicant: EATON BROS. INC., Box 237, Portales, NM 88130. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. *Contract carrier: irregular routes: Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Section A & C of Appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 768, (except hides and skins and commodities in bulk), from the facilities of John Morrell and Company at or near Amarillo, El Paso, and Lubbock, TX to points in AL, CA, FL, GA, IL, KS, LA, MI, MN, MS, OK, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell and Company, 2085 LaSalle Street, Chicago, IL 60604. Send protests to: DS/ICC, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 145220 (Sub-13TA), filed October 5, 1979. Applicant: IREDELL MILK TRANSPORTATION, INC., Rt. 3, Box 368, Mooresville, NC 28115. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Refined peanut oil, in bulk, in tank vehicles*, from Griffith, NC to Dayton, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gold Kist, Inc., P.O. Box 2210, Atlanta, GA 30301. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 145241 (Sub-3TA), filed September 18, 1979. Applicant: HOWELL ENTERPRISES, INC., P.O. Box 696, Haleyville, AL 35585. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. *Contract, Irregular: Iron and steel and iron and steel articles* from Detroit and Grand Rapids, MI; Chicago, IL; and Cleveland, OH; to points in AL, MS, TN, GA, TX, AR and MO, restricted to shipments moving under a continuing contract or contracts with Mid-States Steel Supply Corp., and restricted to transportation of traffic moving for the account of Mid-States Steel Supply Corp. of St. Charles, MO, for 180 days. Supporting shipper(s): Mid-States Steel Supply Corp., 219 North 5th Street, St. Charles, MO 63301. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 145441 (Sub-66TA), filed September 12, 1979. Applicant: A. C. B. TRUCKING INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, (same address as applicant). *Insulators, electric wiring, and pottery*, from LeRoy, NY to points in

AZ, AR, CA, CO, FL, ID, KS, LA, NV, NM, OK, OR, TX, UT, and WA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Lapp Insulator, Division Interpace Corporation, LeRoy, NY 14482. Send protest to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145491 (Sub-2TA), filed September 10, 1979. Applicant: PIGGYBACK TRANSPORTATION SERVICE, INC., P.O. Box 662, Greenwood, IN 46142. Representative: Donald W. Smith, 9000 Keystone Crossing, Indianapolis, IN 46240. *General Commodities (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment)* between Terre Haute, IN and railroad ramps in Indianapolis, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Piggyback Service, Inc., P.O. Box 27176, Indianapolis, IN 46227. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 145491 (Sub-3TA), filed September 11, 1979. Applicant: PIGGYBACK TRANSPORTATION SERVICE, INC., 254 South Kitley Avenue, Indianapolis, IN 46219. Representative: Donald W. Smith, 9000 Keystone Crossing, Indianapolis, IN 46240. *General commodities having a prior or subsequent movement by rail, (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment)* between railroad ramps located at East St. Louis, IL, on the one hand, and on the other, Albion and Salem, IL, Bloomington, Evansville, Indianapolis, Jeffersonville, and Terre Haute, IN and Louisville, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 7 supporting shippers. Send protest to: Beverly J. Williams, Transportation Assistant, ICC 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 145531 (Sub-2TA), filed July 26, 1979. Applicant: RAPID TRANSFER, INC., 3219 Airport Way So., Seattle, WA 98134. Representative: George R. LaBassoniere, 1100 Norton Building, Seattle, WA 98104. *General commodities (except commodities in bulk, household goods, as defined by the Commission, articles of unusual value, articles, which, because of their size or weight require the use of special equipment, livestock, Class A & B explosives and those commodities injurious or contaminating to other*



loading) and empty used containers, used trailers and used trailer chassis, between the Ports of Entry on the U.S./Canada Boundary Line in Whatcom County, WA, Aberdeen-Hoquiam, Everett, Seattle, Bellingham, Tacoma, Longview, Olympia and Vancouver, WA and Portland, OR; (2) Between the above named points, on the one hand and, on the other, San Francisco, Oakland, Los Angeles, Long Beach and San Diego, CA, restricted to traffic having a prior or subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 10 statements in support attached to this application which may be examined at the ICC in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 14581 (Sub-3TA), filed August 28, 1979. Applicant: BRUNSWICK TRUCK SERVICE, INC., 27 Linnhill Circle, Lyhaven Trailer Court, Brunswick, ME 04011. Representative: Philip Sherwood (same address as applicant). Contract: Irregular: Scrap metals and materials for recycling from points in ME to Madbury, NH and Boston, MA, for 180 days. Under contract with A. Gagnon & Sons, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. Gagnon & Sons Inc., P.O. Box 2418, South Portland, ME 04106. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 145981 (Sub-16TA), filed August 30, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Wall coverings and cloth other than with pile or loop surfaces coated with plastic, and materials, equipment and supplies used in the manufacturer and sale of wall coverings and cloth other than with pile or loop surfaces coated with plastic (except commodities in bulk) between Paterson, NJ, on the one hand, and, on the other, points in CA, GA, IL, KY, TN, UT, VA and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bryant Industries, 200 E. 16th Street, Paterson, NJ 07510. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07101.*

MC 145981 (Sub-17TA), filed October 16, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Chemicals, cleaning compounds, paint remover, petroleum oils, and insecticides (except

commodities in bulk) between Edgewater, NJ on the one hand, and, on the other, points in CA, FL, GA, IL, MO, OH, NC, SC, TN, TX, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Octagon Process, Inc., 598 River Road, Edgewater, NJ 07020. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07101.

MC 146360 (Sub-15TA), filed September 13, 1979. Applicant: FLOYD SMITH, JR., TRUCKING, INC., P.O. Box 816, Meridian, ID 83642. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Building materials, from the facilities of Metalbestos Systems, Inc. at or near Logan, UT to points in KS, CO, NE, SD, ND, MN, WI, IA, MO, IL and TX, for 180 days. Supporting shipper(s): Metalbestos Systems, Inc., P.O. Drawer 957, Logan, OH 43138. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.*

MC 146551 (Sub-6TA), filed October 3, 1979. Applicant: TAYLOR TRANSPORT, INC., P.O. Box 285, Grand Rapids, OH 43522. Representative: Arthur R. Cline, 420 Security Bldg., Toledo, OH 43604. *Such merchandise as is dealt in by Wholesale, Retail, Chain Grocery, and Food Business Houses, Institutions, Catalog Show Room Stores, and Home Center Stores; and Equipment, Materials, and Supplies used in the Manufacture, Preparation and Distribution thereof (except commodities in bulk) between Maumee and Toledo, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI) for 180 days. Supporting shipper(s): Nabisco, Inc., P.O. Box 2208, Central Station, Toledo, OH 43603. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St, Rm. 620, Phila, PA 19106.*

MC 146551 (Sub-7TA), filed September 10, 1979. Applicant: TAYLOR TRANSPORT INC., P.O. Box 285, Grand Rapids, OH 43522. Representative: Charles A. Webb, 1800 M St., N.W., Suite 800-South, Washington, DC 20036. *Products and foodstuffs and equipment and materials and supplies used in the preparation of food products, between Napoleon, OH on the one hand, and, on the other, pts. in IL, IN, MI, KY, NY, PA, WV, VA, WI, MD, and the District of Columbia, for 180 days. Supporting shipper(s): Campbell Soup Co., R. R. #110, Napoleon, OH 43545. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 14651 (Sub-8TA), filed September 10, 1979. Applicant: TAYLOR TRANSPORT, INC., P.O. Box 285, Grand Rapids, OH 43522. Representative: Charles A. Webb, 1800 M St., NW, Suite 800-South, Washington, DC 20036.

*Foodstuffs, canned milk, dry coffee, creamer, instant breakfast drink, dessert, topping, way blends in 50# bags, bulk dessert topping in 50# bags, military dessert topping in cans between Defiance, OH, and points in the US, (except AK and HI) for 180 days. Supporting shipper(s): Diehl, Inc., 24 N. Clinton St., Defiance, OH 43512. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, Pa. 19106.*

MC 146760 (Sub-3TA), filed September 14, 1979. Applicant: Gary V. Mondus & Gary E. Hager, d.b.a. G & G EXPRESS, 318 Brunswick Court, Streamwood, IL 60103. Representative: Philip A. Lee, 120 West Madison Street, Chicago, IL 60602. *Supplies for medical diagnostic machines and medical laboratory supplies from Elk Grove Village, IL to point within Iowa boundaries: Iowa State Route 92 on the south; U.S. Route 169 on the West; Iowa State Route 3 on the North; Iowa-Illinois State line on the East for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Curtin Matheson Scientific, Inc., 1850 Greenleaf Avenue, Elk Grove Village, IL 60007. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.*

MC 146850 (Sub-1TA), filed August 10, 1979. Applicant: K & K TRUCKING CO., 10737 59th Ave. S., Seattle, WA 98178. Representative: Wallace Aiken, 1215 Norton Bldg., Seattle, WA 98104. *Contract carrier: irregular routes: Metal castings, forgings, fabrications, and foundry supplies, (1) between points in WA, OR, ID, CA & MT; (2) from Los Angeles commercial zone to Seattle, WA commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Under contract with, (1) Olympic Foundry Company, (2) Western Foundry Sand Division, and (3) Brumley-Donaldson Co. Supporting shipper(s): Olympia Foundry Company, 5200 Airport Way, Seattle, WA 98108; Western Foundry Sand Division, 5 Spokane St., Seattle, WA 98134; Brumley-Donaldson Co., 3050 E. Slauson Ave., Huntington Park, CA 90255. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.*

MC 147050 (Sub-2TA), filed August 6, 1979. Applicant: PETER HOLMAN TRUCKING, INC., 3504 South Federal Hwy., Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 669 Eleventh St., NW., Washington, D.C. 20001. *Adhesives, in containers, from New Philadelphia, OH to points in FL for 180 days. An underlying ETA seeks 90 days*



authority. Supporting shipper(s): Thompson & Company, Inc., 1631 S. Dixie Hwy., Pompano Beach, FL 33060. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 147050 (Sub-4TA), filed August 13, 1979. Applicant: PETER HOLMAN TRUCKING, INC., 3504 S. Federal Highway, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. *Plastic materials (except in bulk) (1) from Monaca, PA, Jamesburg, NJ, and Funderme NJ to Anderson, SC and Miami, FL; and (2) from Anderson, SC to Miami, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kraco, Inc., P.O. Box 440488, Miami, FL 33144. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.*

MC 147161 (Sub-5TA), filed September 26, 1979. Applicant: MASS TRANSIT, INC., 2450 Orange Avenue, Signal Hill, California 90806. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, California 90010. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading of freight forwarders as defined in Section 10102(8) of the Interstate Commerce Act, from points in the Los Angeles, Commercial Zone, CA to Phoenix and Tucson, AZ, New York, NY, Las Vegas and Reno, NV, Eugene and Portland, OR, Charlotte and Greensboro, SC, Salt Lake City, UT, Richmond, VA, and Seattle, WA, for 180 days. An underlying ETA seeks 90 days operating authority. Supporting shipper(s): Inter State Express, Inc., President, 120 Apollo Street, Brooklyn, New York 11222. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.*

MC 147170 (Sub-2TA), filed September 26, 1979. Applicant: KENNETH DUCKER d.b.a. K & L TRUCK SERVICE, 19821 Valley Boulevard, Walnut, California 91789. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, California 90010. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading of freight forwarders as defined in Section 10102(8) of the Interstate Commerce Act, from points in the Los*

Angeles Commercial Zone, CA, to Chicago, IL, Kansas City, KS, New Orleans, LA, Boston, MA, Newark, NJ, Charlotte, NC, Cleveland, OH, Oklahoma City, OK, Pittsburgh, PA, and Dallas and Houston, TX, for 180 days. Supporting shipper(s): Inter State Express, Inc., Secretary, 120 Apollo Street, Brooklyn, New York 11222. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 147380 (Sub-1TA), filed August 30, 1979. Applicant: ATKINSON Wrecker & SUPPLY CORP., 619 West 700 South, Salt Lake City, UT 84104. Representative: Thomas M. Lavin, 620 East Pico Street, Sandy, UT 84070. *Steel bars including steel reinforcing bars from the plantsite of Bethlehem Steel Corp., Vernon, CA to points in Salt Lake, Utah, Davis and Weber Counties, UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bethlehem Steel Corp., 6055 E. Washington Bl., P.O. Box 2336, Los Angeles, CA 90051. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.*

MC 147650 (Sub-2TA), filed September 25, 1979. Applicant: MILLER PAVING LIMITED, Box 250, Unionville, Ontario L3R 2V3, Canada. Representative: Robert D. Gunderman, Esq., 710 Statler Bldg., Buffalo, NY 14202. *Contract carrier-irregular routes. Liquid asphalt cement, in bulk, in tank vehicles, from Warren PA to ports of entry on the International Boundary line between the US and Canada on the Niagara River, restricted to the transportation of traffic transported under a continuing contract or contracts with McAsphalt Industries Limited and Petrofina Canada Limited, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McAsphalt Industries Limited, West Hill, Ontario. Petrofina Canada Limited, 1910 Yonge St., Toronto, Ontario. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron St., Buffalo, NY 14202.*

MC 147711 (Sub-1TA), filed July 12, 1979. Applicant: Howard Short d.b.a. M & H WOOD PRODUCTS, Rt. 1, Box 35A, Newman Lake, WA. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier: Irregular routes: Farm machinery and incidental supplies and parts when moving therewith, from Omaha and Hastings, NE; Great Bend & Hutchinson, KS and Otona, MN to Portland, OR for the account of Mitchell Lewis and Staver Co. of Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mitchell Lewis & Staver Co., 801 S.E. Alder Street, Portland, OR 97214. Send*

protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 147811 (Sub-2TA), filed October 1, 1979. Applicant: FLO-JO CONTRACTING, INC., P.O. Box 283, Belgrade Lakes, ME 04918. Representative: Karl A. Johnson same address as applicant. *Contract: Irregular routes: Salt and dry chemicals in bulk and bags from Syracuse, NY, Watkins Glen, NY and the NY-NJ Commercial Zones, to points in ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. H. Shurtleff Co., P.O. Box 1019, Portland, ME 04104. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.*

MC 147831 (Sub-4TA), filed August 30, 1979. Applicant: CENTRAL STATES EXPRESS, INC., P.O. Box 2464, Jackson, TN 38301. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *(a) Foodstuffs (except in bulk); (b) Materials, equipment and supplies used in the manufacture sale and distribution of commodities described in (a) from the facilities of J. Hungerford Smith Co., Inc. at or near Humbolt, TN and points in the United States (except AK and HI.) Underlying ETA 30+2 pending. Supporting shipper(s): J. Hungerford Smith Co., Inc., P.O. Box 3071, Modesta CA 95355. Send protests to: Floyd A. Johnson, 100 North Main Suite 2006, Memphis, TN 38103.*

MC 147941 (Sub-2TA), filed August 30, 1979. Applicant: WAYNE MOLES TRUCKING COMPANY, 1313 Southwest 3rd Street, Oklahoma City, OK 73108. Representative: Wayne Moles (same address as applicant). *Contract carrier: Irregular route: Adhesives and paint, (except in bulk, in tank vehicles), from the facilities of Chemical Products Development Corp., at or near Oklahoma City, OK, to points in AZ, TX, NM, CA, OR, KS, CO, UT, ID, WY, WA, MT, SD, NE, IA, WI, MO, & MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chemical Products Development Corp., 5001 So. MacArthur, Oklahoma City, OK 73119. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.*

MC 147981 (Sub-1TA), filed September 5, 1979. Applicant: CORNWELL TRANSPORTATION, 741 1/2 Parkridge, Norco, CA 91760. Representative: Jack Cornwell (same address as above). *Contract: Irregular; Insulating materials, and materials and supplies used in the installation of insulating materials, from Willows and Corona, California to points in Arizona and Nevada, for 180*

days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): John-Manville Sales Corp., Regional Traffic Manager, 2600 Campus Drive, San Mateo, CA 94403. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 148031 (Sub-1TA), filed September 20, 1979. Applicant: G. W. CONTRACT TRUCK HAULERS, INC., 1271 Tacoma Drive, Atlanta, GA 30318. Representative: Mark S. Gray, P.O. Box 56387, Atlanta, GA 30343. *Charcoal, charcoal briquettes and materials, equipment and supplies used in the manufacture and distribution of such commodities* (except commodities in bulk in tank vehicles), between points in the U.S. in and east of TX, AR, MO, IL, and WL Restricted to traffic originating at or destined to the facilities utilized by Husky Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 82 Perimeter Center East, Atlanta, GA 30348. Send protests to: Sara K. Davis T/A, ICC, Room 300, 1252 W. Peachtree St., NW, Atlanta, GA 30309.

MC 148031 (Sub-2TA), filed September 4, 1979. Applicant: G. W. CONTRACT TRUCK HAULERS, INC., 1271 Tacoma Drive, Atlanta, GA 30318. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree St., NE, Atlanta, GA 30303. *Contract Carrier: Irregular Routes: (1) Commodities dealt in or utilized by distributors of alcoholic beverages from points in CA and points in the U.S. in and east of TX, AR, MO, IA and MN to points in GA and FL (2) Commodities dealt in by distributors of hotel and restaurant equipment, fixtures and supplies from points in the U.S. in and east of TX, AR, MO, IA and MN to points in GA and (3) Commodities dealt in by distributors of food and snack items from points in the U.S. in and east of TX, AR, MO, IA and MN to points in GA for 180 days. An underlying ETA seeks 90 days authority. RESTRICTION: The authority in (1) above is limited to a transportation service to be performed under a continuing contract or contracts with Valley Distributing Corp., General Wholesale Company of FL, General Wholesale Company, Inc. and General Wholesale Beer Co. The authority in (2) above is limited to a transportation service to be performed under a continuing contract with Wright Hotel Supply Corp. The authority in (3) above is limited to a transportation service to be performed under a continuing contract with Shurway Distributing Co., Inc. Supporting shipper(s): There are 8 shippers. Their statements may be examined at the office listed below and*

Headquarters. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 148070 (Sub-1TA), filed August 6, 1979. Applicant: A-1 AM, INC., 1324 Third St., SW, Canton, OH 44702. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers or distributors of cheese, cheese products, and substitute cheese products* (except in bulk), from facility of Fisher Cheese Co. located at Wapakoneta, OH to point in the US (except AK & HA) and raw materials from points in the US (except AK & HA) to the facility of Fisher Cheese Co. at Wapakoneta, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fisher Cheese Co., P.O.B. 409, Wapakoneta, OH 45895. Send protests to: I.C.C., 620 Fed. Res. Bank Bldg., 101 N. 7th St., Phila., PA 19106.

MC 148161 (Sub-1TA), filed August 24, 1979. Applicant: DANA TRUCKING INC., P.O. Box 187, Wheelersburg, OH 45694. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Contract carrier: Irregular routes: (1) Iron and Steel articles as described by the Commission and (2) Materials, supplies and equipment used in the manufacture of iron and steel articles.* Those commodities named in (1) above from Huntington, WV to points in the US in and east of MN, IA, KS, OK, & TX and those commodities named in (2) above from points in the US in and east of MN, IA, KS, OK & TX to Huntington, WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Connors Steel Company, Inc., P.O. Box 118, Huntington, WV 25708. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 148190 (Sub-1TA), filed Sept. 19, 1979. Applicant: RAMSEY TRUCKING, INC., 604 Hudson Drive, Chattanooga, TN 37405. Representative: H. Owen Maddux, 808 MacLellan Bldg., Chattanooga, TN 37402. *Contract carrier: irregular routes: (a) Broken glass and bulk in dump vehicles from Chattanooga, TN to the plant site of Chattanooga Glass Co. at or near Mineral Well, MS. (b) Sand in bulk in dump vehicles from points in Benton County, TN to the plant site of Chattanooga Glass Co. in Chattanooga, TN, for 180 days. Above transportation in (a) and (b) restricted to transportation performed under a continuing contract with Chattanooga Glass Co. of Chattanooga, TN. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chattanooga Glass Co., 400*

W. 45th St., Chattanooga, TN 37410. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 148201 (Sub-1TA), filed September 5, 1979. Applicant: RETAIL LEASING CORP., 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave., NW, Washington, DC 20036. *General commodities (except articles of unusual value, household goods as defined by the Commission, Classes A & B explosives, commodities in bulk, and those requiring special equipment) having a prior or subsequent movement by air between Columbus, OH on the one hand, and, on the other, (1) New York, NY and (2) Atlanta, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Burlington Northern Air Freight, P.O. Box 19724, Columbus International Airport, Columbus, OH 43219. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 148320 (Sub-1TA), filed September 20, 1979. Applicant: MHB, INC., P.O. Box 10505, Goldsboro, NC 27530. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. (1) *Canned goods, other than frozen, from the facilities of Joan Of Arc Company in Sampson County, NC to points in the U.S. in and east of MI, IN, KY, TN, MS, and LA; (2) Canned goods, other than frozen, from the facilities of Joan Of Arc Company at or near Belladeau and St. Francisville, LA to the facilities of Joan Of Arc Company in Sampson County, NC; (3) Materials and supplies used in the production and distribution of canned goods from Baltimore, Fruitland, and Hurlock, MD, Spartanburg, SC and Winchester, VA to the facilities of Joan Of Arc Company in Sampson County, NC; (4) malt beverages from Fogelesville, PA, Pabst, GA, Norfolk, VA and Trenton, NJ to Goldsboro, NC and (5) root beer from Scranton, PA to Goldsboro, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joan Of Arc Company, 2231 W. Altorfer Dr., Peoria, IL 61615 and Stan D. Bowles Distributing Co., Hwy. 70 East & Royal Ave., Goldsboro, NC 27532. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd, Rm CC516, Charlotte, NC 28205.*

MC 148321 (Sub-1TA), filed October 4, 1979. Applicant: ROBERT BERINGER d.b.a. GEORGE BERINGER & SONS, 2200 Douglas Ave., Apt. 14, Yankton, SD 57078. Representative: Robert Beringer (same address as applicant), *Contract carrier: irregular routes: Aluminum extrusions and scrap aluminum between Yankton, SD and Brussels, IN;*

Charleston and St. Charles, IL; Longview, Houston and Dallas, TX; Denver and Colorado Springs, CO; Idaho Falls, ID; Casper, WY; Newton, KA; Oklahoma City, OK and Savannah, GA, for the account of Alumax Extrusions, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Alumax Extrusions, Inc., Box 681, Yankton, SD 57078. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 148530 (Sub-TA), filed October 2, 1979. Applicant: MID MONTANA, INC., 1010 North Rouse, P.O. Box 1131, Bozeman, MT 59715. Representative: Gary Everson, 320 Hart-Albin Bldg., Billings, MT 59101. *Dairy products*, other than bulk, and *soft drinks* from points in CO to points in MT, for 180 days. Supporting shipper: Beatrice Foods Co., 109 South Broadway, Billings, MT 59101. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

#### Motor Carrier of Passengers

MC 148011 (Sub-1TA), filed August 28, 1979. Applicant: EDENFIELD STAGES, INC., 50 W. Main St., New Salem, PA 15468. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Passengers and their baggage*, in charter operations from Uniontown, Brownsville and Menallen Township, Fayette County, PA to points in OH and NJ and return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Happy Traveler Club, 211 6th Ave., Brownsville, PA, Valley Sportsmens Club, RD #1, Box 247, Uniontown, PA, Seton Travel Club, 19 Church St., Dunbar, PA 15431. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

#### Notice No. 200

November 7, 1979.

MC 200 (Sub-404TA), filed October 3, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: H. Lynn Davis (same as applicant). *Books*, serving Westminster, MD as an off-route point in connection with carrier's regular route service, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: R. R. Donnelley and Sons Company, 1009 Slaon St., Crawfordsville, IN 47933. Send protest to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 730 (Sub-475TA), filed October 10, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25

North Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge (same address as applicant). 1. *Latex, in bulk, in tank vehicles*, from Vallejo, CA to South Bend, IN. 2. *Mineral spirits, in bulk, in tank vehicles*, from Chicago, IL to Vallejo, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: California Resin & Chemical Co., Inc., 501 Green Island Road, Vallejo, Ca 94590. Send protest to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 2860 (Sub-188TA), filed October 24, 1979. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Suzinski, National Freight, Inc., 71 West Park Avenue, Vineland, NJ 08360. *Aluminum cans*. From Wayne, NJ to Columbus, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Continental Can Co., Inc. P.O. Box 659, Passaic, NJ 07055. Send protest to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 2860 (Sub-187TA), filed October 29, 1979. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Duzinski, 71 West Park Avenue, Vineland, NJ 08360. Juice, fruit, canned, from Lakeland, FL to Charlotte, NC; Forest Park, GA; Hanover, PA; Jersey City, NJ; Liverpool, NY and Everitt, MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bordens, Inc., Bordens Food Division, 180 East Broad Street, Columbus, OH 43215. Send protest to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 2900 (Sub-397TA), filed October 17, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (address same as applicant). *General Commodities (except those of unusual value, Classes A and B explosives, commodities in bulk and those requiring special equipment and household goods as defined by the Commission)*, serving the facilities of E. I. duPont de Nemours and Co., Inc. at DeLisle, MS as an off-route point in connection with carriers presently authorized regular routes for 180 days. Applicant seeks to tack this authority with that issued in MC-2900 and to interline with other carriers. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., 1007 Market Street, Wilmington, DE 19898. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 2900 (Sub-398TA) filed October 17, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408; Jacksonville,

FL 32203. Representative: Sam E. Somers, Jr. (address same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *Regular Routes*: General Commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, those requiring special equipment and household goods as defined by the Commission). 1. Between Milwaukee, WI and Two Rivers, WI serving all intermediate points: From Milwaukee over U.S. Hwy 141 (also Interstate Hwy 43) to Manitowoc, WI then over WI Hwy 42 to Two Rivers, WI and return over the same route. 2. Between Sheboygan, WI and Plymouth, WI serving all intermediate points: From Sheboygan over WI Hwy 23 to Plymouth and return over the same route. 3. Between Sheboygan, WI and Chilton, WI serving all intermediate points: From Sheboygan over WI Hwy 32 to Kiel then over WI Hwy 57 to Chilton and return over the same route. 4. Between Milwaukee and Portage, WI serving all intermediate points: From Milwaukee over U.S. Hwy 18 to Waukesha then over U.S. Hwy 16 to Portage and return over the same route. Supporting shipper: There are 61 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Jean King, TA, ICC Box 35008, 400 West Bay Street Jacksonville, FL 32202. 5. Between Minnesota Junction, WI and Janesville, WI serving all intermediate points: From Minnesota Junction, WI over WI Hwy 26 to Janesville and return over the same route. 6. Between Minnesota Junction, WI and Columbus, WI serving all intermediate points: From Minnesota Junction over WI Hwy 33 to Beaver Dam, then over U.S. Hwy 151 to Columbus and return over the same route. 7. Between Whitewater, WI and Madison, WI serving all intermediate points: From Whitewater over U.S. Hwy 12 to Madison and return over the same route. 8. Between Watertown, WI and Madison, WI serving all intermediate points: From Watertown over WI Hwy 19 to junction U.S. Hwy 151 then over U.S. Hwy 151 to Madison and return over the same route. 9. Between Watertown, WI and Lake Mills, WI serving all intermediate points: From Watertown over County Road A to Lake Mills and return over the same route. 10. Between Milwaukee, WI and Janesville, WI serving all intermediate points: From Milwaukee over WI Hwy 59 to junction WI Hwy 26, then over WI Hwy 26 to Janesville and return over the same route. 11. Between Milwaukee, WI and Madison, WI serving the intermediate points of Delafield, WI: From Milwaukee

over WI Hwy 30 (also Interstate Hwy 94) to Madison and return over the same route. 12. Between Racine, WI and Janesville, WI serving all intermediate points: From Racine over WI Hwy 11 to Janesville and return over the same route. 13. Between Milwaukee, WI and Rockford, IL serving all intermediate points between Milwaukee and South Beloit, IL: From Milwaukee over WI Hwy 15 to Beloit, WI then over U.S. Hwy 51 to Rockford, IL and return over the same route. 14. Between Kenosha, WI and Delavan, WI serving all intermediate points: From Kenosha over WI Hwy 50 to Delavan and return over the same route. 15. Between Racine, WI and Rochester, WI serving all intermediate points: From Racine over WI Hwy 20 to Rochester and return over the same route. 16. Between Milwaukee WI and the junction of WI Hwys 15 and 24 near Lake Beulah, WI serving all intermediate points: From Milwaukee over WI Hwy 24 to junction WI Hwy 15 near Lake Beulah and return over the same route. 17. Between Port Washington, WI and Minnesota Junction, WI serving no intermediate points: From Port Washington over WI Hwy 33 to Minnesota Junction and return over the same route. 18. Between Horicon, WI and Oconomowoc, WI serving no intermediate points and serving Horicon for the purpose of joinder only: From Horicon over WI Hwy 67 to Oconomowoc and return over the same route. 19. Between Beaver Dam, WI and Portage, WI serving no intermediate points: From Beaver Dam over WI Hwy 33 to Portage and return over the same route. 20. Between Milwaukee WI and Silver Lake, WI serving all intermediate points: From Milwaukee over WI Hwy 36 to Lake Geneva then over U.S. Hwy 12 to Genoa City then over unnumbered highway via Twin Lakes to Silver Lake and return over the same route. 21. Between Burlington, WI and New Munster, WI serving all intermediate points: From Burlington over WI Hwy 83 to junction unnumbered highway south of Salem then over unnumbered highway to Wilnot then over unnumbered highway to junction WI Hwy 83 at New Munster and return over the same route. 22. Between Portage WI and Rockford, IL serving no intermediate points and serving for the purposes of joinder only, Portage, Madison, Janesville and Beloit, WI and Rockford, IL: From Portage over WI Hwy 33 to junction Interstate Hwy 90 then over Interstate Hwy 90 to junction WI Hwy 15, then over WI Hwy 15 to Beloit, WI, then over U.S. Hwy 15 to Rockford, IL and return over the same route. *Irregular Route*, General

Commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, those requiring special equipment and household goods as defined by the Commission). Between Racine, Kenosha, Burlington, Waukesha, Watertown, Port Washington, Sheboygan, East Troy, WI and points in Milwaukee County WI. Applicant seeks to tack this authority with that issued in MC-2900, to interline and serve the commercial zones of each city. An underlying Emergency Temporary Authority application seeking authority for 90 days has been filed. Supporting shipper(s): There are approximately 61 supporting shippers. Send protests to: G. H. Fauss, Jr., I.C.C., Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 2900 (Sub-402TA), filed October 18, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. BOX 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (address same as applicant). Irregular Routes: (A) Lumber and Building Materials; Metal, Plastic or Rubber Articles or Products; Containers; Paper and Paper Articles; Automotive Parts; Machines or Machine Parts; Radioactive Materials; Chemicals and Photographic Materials; Electrical Appliances, Equipment and Parts; Drugs, Medicines or Toilet Preparations; Cleaning Compounds; Ore Products; Petroleum Products; Food and Foodstuffs; and Beer. Between Chicago, IL; Minneapolis, MN; Kansas City, MO; Omaha, NE; Oklahoma City, OK; Dallas and Houston, TX; Denver, CO and Cheyenne, WY on the one hand, and, on the other, points in the States of Arizona, California, Nevada, Oregon, Utah and Washington. (B) Electrical Appliances, Equipment and Parts; Food and Foodstuffs; Lumber and Building Materials; Machines or Machine Parts; and Metal, Plastic or Rubber Articles or Products: Between Arizona, California, Colorado, Nevada, Oregon, Utah, and Washington. Supporting shipper: None—This is an application designed to reduce empty miles, eliminate circuitry and save fuel. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

Note.—Applicant intends to tack the authority sought in (A) and (B) above with that held in Docket No. MC-2900.

MC 2960 (Sub-34TA), filed October 11, 1979. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, 2301 McKinney St., Houston, TX 77023. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. *Aluminum extrusions* from the facilities of the Reynolds Metals Company, located at or near Malakoff, TX to Houston, Tx, in ocean going containers,

restricted to traffic having a subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Reynolds Metals Company, P.O. Box 487, Malakoff, TX 75148. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 3281 (Sub-14TA), filed October 22, 1979. Applicant: POWELL TRUCK LINE, INC., 800 S. Main St., Searcy, AR 72143. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Common carrier over regular routes: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Little Rock, AR and Conway, AR and their respective commercial zones, (a) from Little Rock, AR, over Interstate Hwy 65 to Conway, AR and return over the same route, (b) from Little Rock, AR over U.S. Hwy 67 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Conway, AR, serving no intermediate points but serving the junction of U.S. Hwy 64 and U.S. Hwy 67 for purposes of joinder only, for 180 days. Underlying ETA seeks 90 days authority. Applicant intends to tack and interline at Little Rock, AR; Searcy, AR, and Memphis, TN. Supporting shippers: Approximately 26 shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 4941 (Sub-76TA), filed October 2, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello St., Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). *Boot or shoe findings, and materials, equipment, and supplies used in the manufacture and distribution of boots or shoes*, from Brockton, MA to Cincinnati, OH. For 180 days. Supporting shipper: The United States Shoe Corp., 1658ge a05de3.088 Herald Ave., Cincinnati, OH 45212. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 4941 (Sub-77TA), filed October 10, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). *Mineral fiber, mineral fiber products, air filters and insulating materials*, from the facilities of the United States Gypsum Co. at Wabash, IN to CT, DE, MD, MA, ME, NJ, NH, NY, PA, RI, VT and DC. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: United States Gypsum Co., 101 South Wacker Drive,

Chicago, IL 60606. Send protests to: John B. Thomas, D/S, ICC, 150 Causeway St., Boston, MA 02114.

MC 11220 (Sub-178TA), filed September 28, 1979. Applicant: GORDONS TRANSPORTS, INC., P.O. Box 59, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. *Paper and paper products*, from the facilities of Crown Zellerbach Corp. at or near Zee, LA, to points in IL, IN and OH, for 180 days. Supporting shipper: Crown Zellerbach Corp., P.O. Box 1060, Bogalusa, LA 70427. Send protests to: Floyd A. Johnson, Suite 2006 — 100 N. Main St., Memphis, TN 38103.

MC 19201 (Sub-138TA), filed September 18, 1979. Applicant: PENNSYLVANIA TRUCK LINES, INC., 84 Great Valley Parkway, Malvern, PA.—19355. Representative: S. Berne Smith, Esq. and Robert H. Griswold, Esq., 100 Pine Street — P.O. Box 1166, Harrisburg, PA. — 17108. *General commodities* (except household goods in use as defined by the Commission, commodities of unusual value, Classes A and B explosives, and commodities in bulk and/or those because of size or weight, require special equipment), between Norfolk, VA. and Norfolk, VA. commercial zone on the one hand and on the other, points within the State of Virginia restricted to shipments having a prior or subsequent movement via rail or water service, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: There are ten (10) statements in support attached to this application which may be examined at the I.C.C. office in Washington, D.C.; or copies of which may be examined in the field office named below. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Phila., PA.—19106, Room 620.

MC 29910 (Sub-234TA), filed October 10, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, Arkansas 72901. Representative: Joseph K. Reber (same address as applicant). *General Commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment). Serving the facilities of Colt Industry, Trent Tube Division at or near East Troy, WI as an off-route point, in connection with ABF's regular route operation to and from Milwaukee, WI (authority to serve Milwaukee, WI can be found on ABF's abstract of authority at Page 10, Sub 63, Line 22) for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper: Colt Industries, Trent Tube

Division, 2188 Chruch Street, East Troy, WI 53120. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 29910 (Sub-236TA), filed October 16, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 S. 11 St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). *Common carrier over regular routes: General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the facilities of National Starch Company at or near Meredosia, IL as an off-route point, in connection with carrier's authorized service between Chicago, IL and Hutchinson, KS, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: National Starch Company, P.O. Box 6500, Bridgewater, NJ 08807. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 29910 (Sub-237TA), filed October 18, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 S. 11 St., Ft. Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). *Common carrier over regular routes: General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of John H. Harland Co. at or near O'Fallon, MO as an intermediate off-route point in connection with carrier's regular route operations between St. Louis and Kansas City, MO, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): John H. Harland Co., Decatur, GA 30035. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 35320 (Sub-353TA), filed October 12, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas, P.O. Box 2550, Lubbock, TX 79408. *Automotive parts and accessories* between Toledo, OH and its commercial zone and Laredo, TX and its commercial zone for 180 days. Underlying ETA filed. Supporting shipper(s): Chrysler Corporation, P.O. Box 1976, Detroit, MI 48288. Send protests to: Marianne Minnich, TCS, Interstate Commerce Commission, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 35320 (Sub-354TA), filed October 12, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas, 2598 74th St., P.O. Box 2550, Lubbock,

TX 79408. *Automotive parts and accessories* between Syracuse, NY and its commercial zone and Laredo, TX and its commercial zone for 180 days. Underlying ETA filed. Supporting shipper(s): Chrysler Corporation, P.O. Box 1976, Detroit, MI 48288. Send protests to: Marianne Minnich, TCS, Interstate Commerce Commission, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 35831 (Sub-21TA), filed September 11, 1979. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76660. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Particleboard* from Diboll, TX to Beaumont, Houston, and Port Arthur, TX, for subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Temple-Eastex, Inc., P.O. Drawer N, Diboll, TX 75941. Send protests to: Opal M. Jones, TCS Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 52460 (Sub-262TA), filed October 15, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, 2601 N.W. Expressway, Oklahoma City, OK 73112. *Candy*, from Covington, TN. to points in AL, AZ, AR, CO, FL, GA, KS, LA, MO, MS, NM, NC, OK, SC, and TX., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charms Co., Halls Mill Road, Frehold, NJ. 07728. Send protests to: Connie Stanley, Rm 240, N.W. 3rd, Oklahoma City, OK 73102.

MC 52460 (Sub-263TA), filed September 14, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Canned goods*, from Benton, Crawford and Washington Counties, AR and Adair and Haskell Counties, OK, to points in CO, FL, IA, & LA, restricted to the transportation of traffic originating at the facilities of Allen Canning Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allen Canning Company, 305 E. Main, P.O. Box 250, Siloam Springs, AR 72761. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 52460 (Sub-264TA), filed September 14, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Canned goods*, from the facilities of



Allen Canning Company at or near Moorhead MS, to points in AL, AR, FL, GA, LA, MO, NC, SC, TN, & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allen Canning Company, 305 E. Main, Siloam Springs, AR 72761. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 53841 (Sub-38TA), filed October 9, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, E. State St., Knox, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Iron and steel wire rods, in coils*, from Perth Amboy, NJ to IL, IN, KY, MI, NC, OH, PA, TN, and WV and rejected or returned materials in reverse direction for 180 days. Supporting shipper(s): Raritan River Steel Co., P.O. Box 309, Perth Amboy, NJ 08862. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 59840 (Sub-77TA), filed October 24, 1979. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative Michael A. Beam, 301 Blair Road, Woodbridge, NJ 07095. *Contract carrier*, irregular routes for 180 days. Pet foods and foodstuffs, between Jersey City, NJ, on the one hand, and, on the other, Portland and South Portland, ME, Abington, Northboro, Readville, and Tewksburg, MA, Buffalo, NY and its commercial zone, Syracuse, NY and its commercial zone, and Warners, NY, Cleveland OH and its commercial zone, and Solon, OH, Erie, PA, Providence, RI, and St. Johnsbury, VT. Restricted to traffic originating at or destined to facilities of Ralston-Purina, under continuing contract(s) with Ralston-Purina Company, St. Louis, MO. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ralston-Purina Company, 108 Industrial Drive, Jersey City, NJ 07305. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 61440 (Sub-174TA), filed October 9, 1979. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. *Common carrier: Regular route: General commodities* (except those of unusual value, Classes A&B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): None. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 61440 (Sub-175TA), filed October 9, 1979. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. *Common carrier: Regular route: General commodities* (except those of unusual value, Classes A&B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): None. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 61440 (Sub-176TA), filed October 24, 1979. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. *Common carrier: Regular route: General commodities* (except those of unusual value, Classes A&B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Brownberry Ovens, Inc., located at or near Oconomowoc, WI, as an off route point in connection with carrier's otherwise authorized regular route operations for 180 days. Supporting shipper(s): Peavy Company, Brownberry Ovens Div., P.O. Box 388, One Meadow Road, Oconomowoc, WI 53066. Send protests to: Connie Stanley, ICC, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

Note.—Applicant intends to tack the authority sought herein with presently authorized operations. An underlying ETA seeks 90 days authority.

MC 61440 (Sub-177TA), filed October 17, 1979. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73157. Representative: W. K. Hale (same address as applicant). (A) *Glass containers, container ends and closures*; (B) *Commodities manufactured or distributed by manufacturers and distributors of glass containers when moving in mixed loads with glass containers*; (C) *Materials, equipment and supplies used in the manufacture and distribution of (A) above* (except commodities in bulk), between the facilities of Brockway Glass Co., Inc. at or near Ada, and Muskogee, OK, on the one hand, and on the other, points in GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brockway Glass Co., Inc., McCulough Ave., Brockway, PA 15824. Send protests to: Connie Stanley, ICC,

Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 64600 (Sub-53TA), filed September 24, 1979. Applicant: WILSON TRUCKING CORPORATION, P.O. Drawer 2, Fishersville, VA 22939. Representative: William J. Jones (same as applicant). *Common carrier: Regular routes: General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, for 180 days. (1) Between Norfolk, VA and Edenton, NC: From Norfolk over U.S. Hwy 17 to Edenton and return over the same route. (2) Between Norfolk, VA and Rocky Mount, NC: From Norfolk over U.S. Hwy 58 to its intersection with VA Hwy 189, then over VA Hwy 189 to its intersection with U.S. Hwy 258, then over U.S. Hwy 258 to its intersection with NC Hwy 97, then over NC Hwy 97 to its intersection with U.S. Hwy 301, then over U.S. Hwy 301 to Rocky Mount and return over the same route. Serving all intermediate points and points in the NC counties of Camden, Pasquotank, Currituck, Perquimans, Northampton, Halifax, Gates, Chowan, Hertford, Bertie, Edgecombe and Nash, as off-route points in connection with routes described in (1) and (2) above. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 19 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia PA 19106.

MC 85530 (Sub-6TA), filed September 26, 1979. Applicant: BLALOCK TRUCK LINE, INC., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. (1) *General commodities (except Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and commodities requiring the use of special equipment), in intermodal cargo containers or in trailers, restricted to the transportation of traffic having a prior or subsequent movement by water, and (2) Empty intermodal cargo containers, trailers and trailer chassis*, between Charleston, SC; Jacksonville, FL; Savannah, GA and Wilmington, NC and points in the commercial zones of each, for 180 days. An underlying ETA seeds 90 days authority. Supporting Shipper(s): There are 8 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: E. E. Strotheid, D/S, ICC, Room 302, 1400



Building, 1400 Pickens St., Columbia, SC 29201.

MC 85970 (Sub-27TA), filed September 26, 1979. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38204. Representative: Larry Sartain 1625 Hornbrook Street, Dyersburg, TN 38024. *Plastic granules, plastic flakes, and such commodities as are manufactured, processed or dealt in by manufacturers of plastic and plastic products, and equipment, materials, and supplies used in the manufacturing and distribution of plastic and plastic products except commodities in bulk*, between the facilities of the Ethyl Corp. located at or near Tiptonville, TN, on the one hand, and, on the other, points and places in the United States except AL and HI for 180 days. Supporting Shipper(s): Ethyl Corp, Ethyl Tower, 451 Florida Blvd., Baton Rouge, LA 70801. Send protests to: Floyd A. Johnson, Suite 2006 100 N. Main St., Memphis, TN 38103.

MC 90870 (Sub-34TA), filed September 17, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2 Box 137, Alhambra, Illinois 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. *Railway car parts and rough railway car parts, locomotive wheels, parts, accessories, and materials, equipment, and supplies therefor (except commodities in bulk)*, between Keokuk, IA; Bessemer, AL; Kansas City, KS; Alliance, OH; Granite City and Bensenville, IL; and E. Chicago and Hammond, IN on the one hand, and on the other, points in AL, AR, MO, IL, IN, OH, and Texarkana, TX. Restricted to traffic originating at or destined to the facilities of AMSTED Industries for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Griffin Wheel Company, Division of AMSTED Industries, Inc., 200 West Monroe Street, Chicago, IL 60606. Send protests to: Annie Booker, TA, ICC 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 93840 (Sub-51TA), filed September 24, 1979. Applicant: GLESS BROS., INC., P.O. Box 219, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Feed phosphate, in bulk, in dump vehicles*, from the facilities of Hooker Chemical Co. at Montpelier, IA, to Ashkum, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hooker Chemical Company, P.O. Box 4289, Houston, TX 77210. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 95540 (Sub-1136TA), filed October 15, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Rd., P.O.

Box 1636, Lakeland, FL 33802.

Representative: Benjy W. Fincher (same address as applicant). Titanium Dioxide (except in bulk) from DeLisle, MS to points in the U.S. in and east of MT, WY, CO and NM and points in CA for 180 days. Supporting shipper(s): E. I. du Pont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W., 53rd Ter., Miami, FL 33168.

MC 95920 (Sub-60TA), filed September 28, 1979. Applicant: SANTRY TRUCKING, INC., 10505 N.E. 2nd Avenue, Portland, Oregon 97211. Representative: George R. LaBissioniere, 1100 Norton Building, Seattle, WA 98104. General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points in Oregon and points in California, restricted to the account of Western Shipper's Association, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western States Shippers Association, Inc., 5964 N.E. 87th, Portland, OR 97220, 503-221-3102. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

#### Representative Points

San Francisco	Lynnwood
Palo Alto	Huntington Park
Sunnyvale	Valencia
Richmond	Paramount
San Jose	Anaheim
Modesto	City of Commerce
Santa Clara	Pico Rivera
San Leandro	Santa Ana
South San Francisco	San Diego
Santa Cruz	Vernon
Lodi	Orange
Salinas	Reseda
San Rafael	Santa Monica
Sacramento	Burbank
Costa Mesa	El Segundo
Sausalito	Santa Fe Springs
Emeryville	Riverside
Hayward	San Bernardino
Fresno	Long Beach
Berkeley	Gardina
Oakland	Lancaster
Menlo Park	Fullerton
Burlingame	Escondido
Brisbane	Vista
San Carlos	Inglewood
Fairfield	Thousand Oaks
Millbrae	Glendale
Walnut Creek	Carson
Dublin	Santa Barbara
Redwood City	Treasure Island
Mountain View	Alameda
Concord	North Hollywood
Norwalk	El Cajon
Pasadena	Valencia
Ventura	San Fernando
El Toro	Van Nuys
Long Beach	Downey
Los Angeles	Hawthorne
El Monte	Los Altos
Coalinga	Ventura

MC 97251 (Sub-9TA), filed October 1, 1979. Applicant: TURNER TRUCKING CO., INC., 1251 West Main Street, Lebanon, IN 46052. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Plastic articles and materials, equipment and supplies used in the manufacture and distribution of plastic articles (except commodities in bulk)*, between the facilities of Prairie Industries, Inc. at Lebanon, IN, Genolite Corporation at Scranton, PA; and General Foam Plastics Corporation at Norfolk, VA, on the one hand, and, on the other, all points in the United States (except AK, HI, ID, MT, NV, ND, OR, SD, UT, WA and WY) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Foam Plastics Corporation, 3321 Princess Anne Road, Norfolk, VA. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 99680 (Sub-6TA), filed September 21, 1979. Applicant: NORTH SHORE & CENTRAL ILLINOIS FREIGHT CO., 7701 West 95th St., Hickory Hills, IL 60457. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Common carrier-irregular route, *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment) between Gary, IN and Hickory Hills, IL, over regular routes, serving all intermediate points as follows: from Hickory Hills IL over U.S. 20 to Gary, IN and return. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 14 supporting shippers. Send protests to: Jacquelyn L. Banks, TA, ICC, 219 South Dearborn St., Chicago, IL 60604.

MC 103051 (Sub-481TA), filed October 23, 1979. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, Nashville, TN 37209. Representative: Russell E. Stone (same address as applicant). *Liquid Synthetic Resins, in bulk, in tank vehicles*, from Enoree, SC to Carrollton, TX; Pine Castle, FL; Atlanta, GA and Charlotte, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Celanese Polymer Specialties Co., P.O. Box 30713, 6101 Orr Rd., Charlotte, NC 28230. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 106401 (Sub-74TA), filed September 20, 1979. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231.

Representative: Roger W. Rash (same as above). *Common carrier-regular routes; General commodities except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Columbus, GA and Opelika, AL, serving all points in Russell County, AL, as intermediate or off-route points; between Columbus, GA and junction of US Hwys. 80 and 11, near Cuba, AL serving all points in Russell County, AL as intermediate or off route points, serving Montgomery, AL as an intermediate point, and serving junction of US Hwys. 80 and 11 for the purpose of joinder only; between Dawson, GA and Montgomery, AL, serving all intermediate points in GA; between Thomasville, GA and Opp, AL, serving all intermediate points in GA; between Arlington, GA and Dothan, AL, serving all intermediate points in GA and serving Dothan for the purpose of joinder only; between Rome, GA and junction U.S. Hwys. 411 and 78, serving all intermediate points in GA, and serving junction US Hwys. 411 and 78 for the purpose of joinder only; between Rome, GA and Birmingham, AL, serving all intermediate points in GA, and serving Birmingham for the purpose of joinder only; for 180 days. Applicant also proposes to change restriction in MC 106401, Sub 13 to read: Restricted against service to points in the commercial zone of Rossville, GA, located in TN and to tack the routes sought in this application to the routes in MC 106401, Sub-13. Applicant also proposes to change the restriction in MC 106401, Sub-18 to read, this authority is restricted to traffic moving from, to, or through points in AL. Applicant does intend to tack the authority here applied for with MC 106401 and various Subs. Applicant also intends to interline with other carriers at Dallas & Houston, TX; New Orleans and Monroe, LA; Jackson, MS; Montgomery, AL and other Johnson terminal points in AL, FL, GA, LA, MS and TX on shipments destined or originating beyond Johnson's authorized territory. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): There are 191 supporting shippers. Their statements may be examined at the office listed below or Headquarters. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.*

MC 110420 (Sub-839TA), filed September 26, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: Michael V. Kaney (same

address as applicant). *Petroleum oil, petroleum lubricating oil, petroleum naphtha, petroleum transformer oil, petroleum or paraffin wax and petrolatum or petrolatum products as described in Appendix XIII to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 (except petroleum chemicals as described in Appendix XV to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209), in bulk, in tank vehicles, from Congo, WV to points in CO, IL, IA, KS, MI, MN, MO, NE, ND, SD, WI & WY, for 180 days. Supporting shipper(s): Quaker Oil Refining Company, Oil City, PA 16301. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.*

MC 111170 (Sub-265TA), filed October 16, 1979. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: Fred Worsham (same address as applicant). *Pulpmill liquids, in bulk, in tank vehicles, between Pine Bluff, AR on the one hand, and Bastrop, Campti, Pineville, LA; Natchez, MS; and South Texarkana, TX on the other, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): International Paper Company, P.O. Box 160707, Mobile, AL 36616. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 111231 (Sub-290TA), filed October 10, 1979. Applicant: JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, AR 72764. Representative: John C. Everett, P.O. Box A, Prairie Grove, AR 72753. *Fiberglass material and fiberglass products, fibrous glass mineral wool products, fibrous glass textile materials, fibrous glass textile products, plastic materials and plastic products, (except plastic bottles) and raw materials, supplies and machinery and equipment used in the manufacturing and packing of such commodities (except commodities in bulk, tank, hopper or dump vehicle): between Kansas City, KS; Topeka and Pauline, KS on the one hand, and on the other, all points in IL, MO, IN, MI and OH, for 180 days. Supporting shipper(s): Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 113271 (Sub-67TA), filed October 25, 1979. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. *Salt, in bags and bulk, from the facilities of the Hardy Salt Company*

located at or near Williston, ND to points in ID, MT, OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hardy Salt Company, P.O. Drawer 449, St. Louis, MO 63168. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 114890 (Sub-98TA), filed October 15, 1979. Applicant: COMMERCIAL CARTAGE CO., 343 Axminster Dr., Fenton, MO 63028. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. *Hydraulic system fluid, in bulk, in tank vehicles, from the facilities of BASF Wyandotte Corporation, Wyandotte, MI to Alton and Granite City, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Transchemical, Inc., Suite 121, 8061 Watson Rd., St. Louis, MO 63119. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.*

MC 115331 (Sub-484TA) (republishing), filed February 6, 1979, previously noticed in the Federal Register issue of March 9, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. F. Ferris, 11040 Manchester Road, St. Louis, MO 63122. (1) Beverages, carbonated or phosphated, non-alcoholic, in containers, from the facilities of Taylor Beverages at or near Hazelwood, MO to points in GA and WI; and (2) Materials and supplies used or useful in the production, distribution and sales of the commodities in (1) above (except in bulk), from Chicago, Kankakee, Plainfield and Streator, IL; Marion, LaPorte, Indianapolis, Dunkirk and Gas City, IN; Atlanta, GA; Kansas City, KS; Jackson, Columbus and Mineral Wells, MS; Columbus and Mt. Vernon, OH; Tulsa and Muskogee, OK and Memphis, TN to the facilities of Taylor Beverages at or near Hazelwood, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Taylor Beverages, Inc., 555 Brown Rd., Hazelwood, MO 63042. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

Note.—The purpose of this republication is to indicate the destination states in (1) above.

MC 115570 (Sub-26TA), filed July 31, 1979. Applicant: WALTER A. JUNG, INC., 3818 S.W. 84th St., Tacoma, WA 98491. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier: irregular routes: Paper and paper products, from Texas and Kansas City, MO to points in CA, OR, WA, AZ, NV, UT, ID and CO, for 180 days. An*

underlying ETA seeks 90 days authority. Supporting shipper(s): St. Regis Paper Company, 1019 Pacific Avenue, Tacoma, WA 98402. Send protest to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 115841 (Sub-739TA), filed October 25, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Department store merchandise—freight all kinds*, from Charlotte, NC to Pittsburgh, PA and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaufmann's Dept. Stores, 400 5th Avenue, Pittsburgh, PA 15219. Send protest to: Glenda Kuss, TA, ICC, A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-740TA), filed October 22, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Dr., Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Iron and steel articles*, from Perth Amboy, NJ to points in NC, SC, AR, TX, AL, OH, PA, LA, MS, GA, FL, and TN, for 180 days. Supporting shipper(s): Raitan River Steel Co., 225 Elm St., Perth Amboy, NJ 08862. Send protest to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 117730 (Sub-71TA), filed September 20, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, 33 N. LaSalle St., Suite 2027, Chicago, IL 60602. *Steel Castings*, from the facilities of Huron Castings, Inc., at Pigeon, MI to Crystal Lake, IL, Findlay, OH, and Frankton, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Huron Castings, Inc., 7050 Hartley Street, Pigeon, MI 48755. Send protest to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 117820 (Sub-38TA), filed September 24, 1979. Applicant: AURELIA TRUCKING CO., 2121 Petit Avenue, Port Huron, MI 48060. Representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. *Frozen beef, in boxes, in vehicles equipped with mechanical refrigeration*, from the facilities of Murco, Inc. at Plainwell, MI to points in and east of ND, SD, NE, CO, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Murco, Inc., P.O. Box 98 Plainwell, MI 49080. Send protest to:

Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 117820 (Sub-39TA), filed September 24, 1979. Applicant: AURELIA TRUCKING CO., 2121 Petit Avenue, Port Huron, MI 48060. Representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. *Lubricants (except in bulk), in vehicles equipped with mechanical refrigeration*, from the plantsite of Acheson Colloids Company at Port Huron, MI to points in and east of ND, SD, NE, CO, OK and TX. Restricted to traffic originating at the named origin and destined to the named destinations for 180 days. Supporting shipper(s): Acheson Colloids Company, Division of Acheson Industries, Inc., P.O. Box 288, 1600 Washington Ave., Port Huron, MI 48060. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 119991 (Sub-36TA), filed June 11, 1979. Applicant: YOUNG TRANSPORT, INC., P.O. Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 320 North Meridian Street, Indianapolis, IN 45204. *Steel bars*, from Buffalo, NY to all points in IN, OH, MO, KY, WI, IA, IL, NE and KS for 180 days. Supporting shipper: Ambassador Steel Corporation, 3415 South Lafountain, Kokomo, IN 46901. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 121060 (Sub-119TA), filed October 9, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. *Iron and steel articles*, from Baytown, TX and points in its commercial zone, to points in AL, AR, LA, GA, MS, OK, TN, and FL, for 180 days. Supporting shipper(s): United States Steel Corporation, 600 Grant Street, Pittsburgh, PA 15230. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35234.

MC 121470 (Sub-39TA), filed Oct. 3, 1979. Applicant: TANKSLEY TRANSFER CO., 801 Cowan St., Nashville, TN 37207. Representative: Helen Jones (same address as applicant). *Iron and steel articles*, from Sparrows Point, MD, Niles, OH, Toledo, OH, Elyria, OH, Hennepin, IL, Chicago, IL and its commercial zone to the plantsite and warehouse facilities of Gould, Inc. located at or near McMinnville, Nashville, and Lexington, TN. (Restricted to the transportation of above traffic originating at said points and destined to said facilities) for 180

days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gould Inc. Electric Motor Div., 1831 Chesnut St., St. Louis, MO 63166. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 124711 (Sub-99TA), filed October 16, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, Kansas 67042. Representative: Rod Parker (same as above). *Crude oil*, in bulk, in tank vehicles from Richardson County, NE, to El Dorado, KS. Common, irregular, for 180 days. Supporting shipper: Pester Refining Co., P.O. Box 751, El Dorado, KS 67042. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 124821 (Sub-65TA), filed October 9, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Empty bottles* (one gallon or less in capacity), (1) between the facilities of National Bottle Corp., at or near Vienna, WV, on the one hand, and, on the other, points in MA, NJ, NY, and Pittsburgh, New Kensington, Philadelphia and Schenley, PA; (2) between the facilities of National Bottle Corp. at or near Joliet, IL, on the one hand, and, on the other, points in NY, NJ, OH, PA, WV, MD, MI, RI and MA; and *Materials* used in the manufacture, sale and distribution of glass bottles, from the destination points indicated in (1) and (2) above, to the facilities of National Bottle Corp. at or near Joliet, IL and Vienna, WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Bottle Co., One Bala Cynwyd Plaza, Bala Cynwyd, PA 19004. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 126930 (Sub-27TA), filed October 21, 1979. Applicant: BRAZOS TRANSPORT CO., P.O. Box 2746, Lubbock, TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Lumber, Plywood and Particleboard* from Bon Wier, TX, Silsbee, TX and Cleveland, TX to points in TX, for export only, for 180 days. Supporting shipper(s): Kirby Forest Industries, Inc., P.O. Box 577, Silsbee, TX 77656. Send protests to: Marianne Minnich, TCS, Interstate Commerce Commission, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 127840 (Sub-138TA), filed September 18, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: Charles R. Emhuff (same

address as applicant). *Glycol, butyl and propylene, in bulk, in tank vehicles*, from the facilities of KMCO, located at Crosby, TX, to all points in CA, LA, MS, OH, OR and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): KMCO, 16503 Ramsey Rd., Crosby, TX 77532. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 127840 (Sub-139TA), filed September 14, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, Illinois 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, Illinois 60601. *Chemical and petroleum products*, from Houston, TX, to points in LA, GA, AL, AR, MO, OH, IL, TN, CO, MT, WY, KY, IN, FL and MS for 180 days. Supporting shipper(s): Calgon Corporation, P.O. Box 1346, Pittsburgh, PA 15230. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn, Room 1386, Chicago, Illinois 60604.

MC 128220 (Sub-31TA), filed October 2, 1979. Applicant: RALPH LATHAM, d.b.a. LATHAM TRUCKING COMPANY, P.O. Box 596, Burnside, KY 42519. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Charcoal, charcoal briquettes, vermiculite, hickory chips, fireplace logs, lighter fluid, and spices and sauces used in outdoor cooking, from facilities used by the Kingsford Company at Ridgeley, WV, Fairless Hills, PA, and Trenton, NJ, and the commercial zones thereof, to points in the US in and east of MN, IA, MO, AR, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kingsford Company, Div. of Clorox Co., 940 Commonwealth Bldg., Louisville, KY 40202. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 128270 (Sub-44TA), filed September 21, 1979. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley St., East Gary, IN 46405. Representative: Richard A. Kerwin, 180 N. La Salle St., Chicago, IL 60601. Common carrier-irregular route, *railroad ties* between points in WI, IA, IN and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Utter, Broker, 1237A So. 28th St., Milwaukee, WI 53215. Send protests to: Jacquelyn L. Banks, TA, ICC, 219 South Dearborn St., Chicago, IL 60604.

MC 129301 (Sub-15TA), filed October 29, 1979. Applicant: ENGLISH AND SONS CORPORATION, 417 Kingshighway, Thorofare, NJ 08086. Representative: James H. Sweeney, 468 Kentucky Avenue, R.D. 5, Williamstown,

NJ 08094. *Contract carrier, irregular routes* for 180 days. Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses and in connection therewith equipment, materials and supplies used in the conduct of such business from points in DE, PA, NJ and NY to Jessup, Elkridge, Columbia, Landover and Silver Spring, MD. An underlying ETA seeks 90 days authority. Supporting shipper(s): Giant Food, Inc., P.O. Box 1804, Washington, D.C. 20013. Send protests to: Robert E. Johnson, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 133270 (Sub-7TA), filed October 19, 1979. Applicant: OREGON FOOD EXPRESS, INC., an Oregon corporation, P.O. Box 17402, Portland, Oregon 97217. Representative: David C. White, 2400 S.W. Fourth Avenue, Portland, Oregon 97201, 226-6491. (1) Foodstuffs requiring refrigeration, and (2) such commodities as are dealt in by grocery stores when moving in mixed loads with the commodities described in (1), in mechanically refrigerated equipment from points in Clackamas and Multnomah Counties, OR, to points in Thurston, Pierce, King, and Snohomish Counties, WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Holman Transfer Co., 49 S.E. Clay, Portland, Oregon 97214. Send protests to: A.E. Odams, DS, 114 Pioneer Courthouse, Portland, OR 97204.

MC 133541 (Sub-10TA), filed September 10, 1979. Applicant: McKIBBEN MOTOR SERVICE, INC., 404 West Sharon Rd. Cincinnati, OH 45246. Representative: James Duvall, 220 W. Bridge St., Dublin, OH 43017. *Contract carrier: irregular routes: Containers, container ends and malt beverages*, between Evansville, IN, Newport, KY, and Frankenmuth, MI, on the one hand, and, on the other, points in IN, KY, MI, and OH, for 180 days. Supporting shipper(s): G. Heileman Brewing Co., Inc., P.O. Box 459, 925 S. 3rd St., LaCrosse, WI 54601. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 133591 (Sub-79TA), filed October 16, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. *Bakery products and snack food items (except frozen bakery products and frozen snack food items)*, from Buena Park, CA to points in AR, MO, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nabisco, Inc., East Hanover, NJ 07936. Send protests to: Vernon V. Coble, DS, ICC 600 Fed.

Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 133920 (Sub-24TA), filed September 25, 1979. Applicant: HOWARD SHEPPARD, INC., P.O. Box 755, Sandersville, GA 31082. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Cement from the facilities of Marquette Cement Co., Rockmart, GA to points in AL, FL, TN, NC, SC, & GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Marquette Co., a wholly-owned Subsidiary of Gulf & Western Inc., 2200 First American Center, Nashville, TN, 37238. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW., Room 300, Atlanta, GA 30309.*

MC 133920 (Sub-25TA), filed October 22, 1979. Applicant: HOWARD SHEPPARD, INC., P.O. Box 755, Sandersville, GA 31082. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Cement, in bulk, in tank vehicles, and in bags*, from the plantsite of Medusa Cement Company at or near Clinchfield, GA, to FL, AL, TN, SC, NC, VA, KY, AR, LA, and MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Medusa Cement Company, P.O. Box 5668, Cleveland, OH 44101. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St. NW., Room 300, Atlanta, GA 30309.

MC 135070 (Sub-109TA), filed October 12, 1979. Applicant: JAY LINES, INC., P.O. Box 30180 Amarillo, TX 79120. Representative: Gaylin L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Suspended carcass beef* from the facilities of Royal Packing Company, at or near National Stockyards, Illinois, and St. Louis, Missouri to points in Texas for 180 days. Underlying ETA filed for 90 days. Supporting shipper(s): Royal Packing Co., P.O. Box 156, National Stockyard, IL 62071. Send protests to: Marianne Minnich, Interstate Commerce Commission, Room 9A27 Federal Building, 819 Taylor St., Fort Worth, TX 76102.

MC 135280 (Sub-11TA), filed September 19, 1979. Applicant: PEP LINES TRUCKING CO., 32600 Dequindre Road, Warren, MI 48092. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. *Contract carrier: irregular routes: Such merchandise as is dealt in by retail department stores, wholesale mercantile establishments and mail order houses, and equipment, materials and supplies used in the conduct of such businesses (except commodities, in bulk, in tank vehicles)*, between New Stanton, PA, on the one hand, and, on

the other, points in Guernsey, Noble, Harrison, Tuscarawas, Jefferson, Belmont, Monroe, Carroll, Columbiana, Washington, Ashtabula, Trumbull, and Mahoning Counties, OH; Hancock, Brooke, Ohio, Marshall, Wetzel, Doddridge, Lewis, Tyler, Pleasants, Monongalia, Preston, Marian, Tucker, Wood, Ritchie, Harrison, Taylor, Barbour, Randolph, and Upshur Counties, WV; and Garrett County, MD, under continuing contract or contracts with Montgomery Ward & Co., Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Montgomery Ward & Co., Incorporated, 800 Geipe Road, Catonsville, MD 21228. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 135481 (Sub-3TA), filed October 24, 1979. Applicant: TELFER TANK LINES, INC., End of Foster St. (POB 709), Martinez, CA 94553. Representative: Daniel W. Baker, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Fuel oil*, in bulk, in tank vehicles, from the facilities of Shell Oil Company at Martinez, CA to facilities of Weyerhaeuser Company near Klamath Falls, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Company, POB 9, Klamath Falls, OR 97601. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 136220 (Sub-88TA), filed October 15, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 N. Choctaw, El Reno, OK 73036. *Foundry coke*, in bulk from St. Louis, MO, to Whitewater, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miller and Company, 55 East Monroe, Chicago, IL 60603. Send protests to: Connie Stanley, Rm 240, 215 N.W. 3rd Oklahoma City, OK 73102.

MC 136220 (Sub-89TA), filed October 15, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 N. Choctaw, El Reno, OK 73036. *Wheat middlings*, (in bulk, in dump vehicles) from Coffeetown, KS to Ft. Smith, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): O.K. Feed Mills, Inc., P.O. Box 1119, Ft. Smith, AR 72901. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73002.

MC 136511 (Sub-82TA), filed October 12, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640

Timberlake Rd., Lynchburg, VA 24502. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 66 Eleventh St. NW., Washington, DC 20001. *Foodstuffs* from Hollister, San Jose, and Oakland, CA to points in GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, NJ, NY, OH, PA, TN, TX, VA, WI, NH, NM, NC, ND, RI, SC, SD, WY, AL, AK, CO, CT, VT, DE and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glorieta Foods, 570 Race St., San Jose, CA 95128. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 136511 (Sub-83TA), filed October 12, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Rd., Lynchburg, VA 24502. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. *Apple sauce, apple juice, apple butter, apple vinegar, and apple slices* from Winchester, VA to points in AZ, NM, CO and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Fruit Product Co., Inc., P.O. Box 2040, Winchester, VA 22601. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 138841 (Sub-21TA), filed October 25, 1979. Applicant: BLACK HILLS TRUCKING CO., P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. *Cheese and cheese products and related advertising material in shipments with cheese and cheese products* from Sturgis, SD to Los Angeles, San Diego, San Francisco and Berkeley, CA and Denver, CO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dakota Farms Cheese, P.O. Box 698, Sturgis, SD 57785. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 142370 (Sub-3TA), filed October 9, 1979. Applicant: PAUL LONDINO, d.b.a. SCRANTON TRANSFER, 500 North 3rd St., Ft. Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902. *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, those requiring special equipment and household goods as defined by the Commission), serving the facilities of Cloyes Gear Company at Paris, AR, as an off-route point in connection with applicant's authority at Ft. Smith, AR for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Cloyes Gear Company, P.O. Box 528, Paris, AR 72855. Send protests to: William H.

Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 142920 (Sub-7TA), filed October 1, 1979. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver Street, Indianapolis, IN 46221. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Contract Carrier: Irregular Routes: *Such commodities as are dealt in or used by manufacturers and distributors of sound, communications, educational, and entertainment materials (except in bulk)* between points in CT, NY, NJ, and PA, on the one hand, and, on the other, points in IN and IL. Between points in IL, on the one hand, and, on the other, points in IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): RCA Corporation, Route 38, Cherry Hill, NJ 08101. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 143540 (Sub-20TA), filed September 27, 1979. Applicant: MARINE TRANSPORT COMPANY, PO Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, PO Box 2246, Raleigh, NC 27602. Contract Carrier-Irregular routes: *Mineral wool (fiberglass) and insulation products (except in bulk)* from the facilities of CertainTeed Corp. at or near Athens, Atlanta, and Chamblee, GA to points in the states of AL, DE, FL, LA, MD, MS, NJ, NC, PA, SC, TN, VA AND WV, for 180 days. An underlying ETA 90 days authority. Supporting shipper(s): CertainTeed Corp., PO Box 860, Valley Forge, PA 19482. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 143691 (Sub-24TA), filed October 23, 1979. Applicant: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher, P.O. Box 4313, Atlanta, GA 30302. *Commercial papers, documents and written instruments as are used in the business of banks and banking institutions* between points in WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Federal Reserve Bank of Kansas City (Denver Branch), 1020 16th Street, Denver, Co 80202. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm 300, Atlanta, GA 30309.

MC 144030 (Sub-8TA), filed September 6, 1979. Applicant: DRUE CHRISMAN, INC., P. O. Box 264, Lawrenceburg, IN 47025. Representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, OH 45202. *Alcoholic Liquors* from Lawrenceburg, IN and Frankfort, KY to Raleigh, NC for 180 days. An underlying



ETA seeks 90 days authority. Supporting shipper(s): Schenley Distillers, Inc., 36 E. 4th Street, Cincinnati, OH 45202. Send protests to: Beverly J. Williams, Trans. Asst., ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 144140 (Sub-42TA), filed October 24, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 158, Eustis, FL 32726. Representative: John L. Dickerson, address same as applicant. *Foodstuffs (except commodities in bulk)* from the facilities of American Home Foods, Division of American Home Products, located at or near Milton, PA to points in FL, GA, NC, OH, SC, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Home Foods Division of American Home Products Corporation, 685 3rd Avenue, New York, NY 10017. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144740 (Sub-18TA), filed September 27, 1979. Applicant: L.G. DeWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K St., NW, Washington, DC 20006. *Contract carrier-Irregular routes; Candy covered apples and fresh apples otherwise exempt from Commission regulation under 49 USC 10526 when moving in mixed loads with candy covered apples, under a continuing contract or contracts with Tastee Caramel Apple Co.* from Newcomerstown, OH to points in GA, MD, PA, VA, and NY, NY and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tastee Caramel Apple Co., 60810 County Road 9, Newcomerstown, OH 43832. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 145120 (Sub-5TA), filed October 29, 1979. Applicant: HOLMDEL TRUCKING COMPANY, 3 Scout Avenue, South Kearny, NJ 07032. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, D.C. 20036. Contract carrier, irregular routes for 180 days. Such commodities as are dealt in or used by department stores (except foodstuffs, and commodities in bulk) from the facilities of Gaylords National Corp. located at or near Secaucus, NJ to points in the United States as set out in Appendix A to the Certificate of Support form (AL, DE, FL, GA, IL, MD, MS, NC, OH, PA, SC and VA) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gaylords National Corp., 10 Enterprise Avenue, Secaucus, NJ 07094. Send protests to:

Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145300 (Sub-3TA), filed October 5, 1979. Applicant: MINUTE MAN TRANSIT, INC., 24 Williams Street, Dedham, MA 02026. Representative: Wesley S. Chused, 15 Court Square, Boston, MA. 02108. *Drugs, chemicals, medicines, and toilet preparations (except in bulk)* from the facilities of Miles Laboratories, Inc. at West Haven, CT to points in ME, MA, RI and VT. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miles Laboratories, Inc., P.O. Box 40, Elkhart, IN 46515. Send protests to: John B. Thomas, District Supervisor, I.C.C., 150 Causeway Street, Boston, MA 02114.

MC 145360 (Sub-7TA), filed October 3, 1979. Applicant: THOM'S TRANSPORT COMPANY, INC., Box 405, Blackshear, GA 31516. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Lumber* from Valdosta, Waycross and Blackshear, GA to points in AL, AR, FL, GA, IN, IL, KY, LA, MD, MN, MO, MI, MS, NC, OH, PA, SC, TN, TX, VA, WI, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hiers Planing Mill Co., Waycross, GA 31501; Johnson Lumber Co., Blackshear, GA 31516; Pinecrafts Remanufacturing Co., Inc., Route 2, Box 185, Valdosta, GA. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145441 (Sub-69TA), filed October 5, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, (same address as applicant). *Glassware* from Dunkirk, IN to all points in TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Lancaster Colony Corporation, 37 West Broad St., Columbus, OH 43215. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145441 (Sub-70TA), filed October 10, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, (same address as applicant). *Alcoholic beverages (except in bulk)* from (1) Union City, CA to points in KS, OK, TX, IL, and LA, and (2) from Pekin, IL to points in CA, for 180 days. Supporting shipper(s): The American Distilling Company, Inc., P.O. Box 587, Union City, CA 94587. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145441 (Sub-71TA), filed October 9, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E.

Bradbury, same address as applicant. *Boxed meat* from Los Angeles, CA to points in IL, OH, MD, TN, TX, LA, MO, KS, NJ, FL, PA, AL, MA and VA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Landmark Beef Processors, Inc., 3163 E. Vernon Ave., Los Angeles, CA 90058. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145441 (Sub-72TA), filed October 9, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, same address as applicant. *Foodstuffs (except in bulk)* when loaded in mechanically refrigerated trailers from Fresno and Kingsburg, CA to points in and east of WI, IA, NE, KS, OK and TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Sun Land Marketing, Inc., P.O. Box 2268, Menlo Park, CA 94025. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145441 (Sub-73TA), filed October 18, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, same address as applicant. *General commodities (except in bulk)*, between Houston and Pasadena, TX; Kansas City, KS; Seneca, Spartanburg, and Startex, SC, on the one hand, and on the other, all points in the U.S. (except AK and HI), restricted to transportation originating at or destined to the facilities of Phillips Petroleum Company, Phillips Fibers Corp., Phillips Chemical Company and Phillips Products Company, Inc., for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Petroleum Company, 148 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145870 (Sub-18TA), filed October 23, 1979. Applicant: L-J-R HAULING, INC., P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 666 Eleventh St. N.W., Suite 805, Washington, DC 20001. (1) *Cast iron pressure pipe, cast iron pressure pipe fittings, and materials and accessories used in the installation and maintenance of cast iron pressure pipe and cast iron pressure pipe fittings*, and (2) *Castings*, from the facilities of Lynchburg Foundry Company at or near Radford, VA to points in WV, TN, KY, OH, IL, MI, IN, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lynchburg Foundry Company, Box 411, Lynchburg,



VA 24505. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St, Rm. 620, Phila, PA 19106.

MC 145920 (Sub-1TA), filed October 29, 1979. Applicant: S. P. CHIASSON TRANSPORT LTEE, P.O. Box 210, Lameque, New Brunswick, Canada EOB 1VO. Representative: Roger E. Noel (same address as applicant). Contract: Irregular: *Peat moss pots* from port of entry on the International Boundary Line between the U.S./Canada located at or near Houlton, ME to points in New York State, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jiffy Products (N.B.) Limited, P.O. Box 434, Shippegan, New Brunswick, Canada EOB 2PO. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 145950 (Sub-57TA), filed October 17, 1979. Applicant: BAYWOOD TRANSPORT, INC., Route 6, Box 2611, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St NW., Washington, DC 20001. *Foodstuffs (except in bulk)* from the facilities of Lawry's Foods, Inc. at or near Fort Worth, TX to Chicago, IL, Detroit, MI; Hanover, PA and Jacksonville, FL and points in their commercial zones, for 180 days. Underlying ETA filed for 90 days. Supporting shipper(s): Lawry's Foods, Inc., 568 San Fernando Road, Los Angeles, CA 90065. Send protests to: Marianne Minnich, TCS, Rm 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146001 (Sub-5TA), filed October 26, 1979. Applicant: BOB MARGOSIAN d.b.a. BOB MARGOSIAN TRUCKING, 6885 Avenue 418, P.O. Box 395, Dinuba, CA 93618. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Chemicals (except in bulk)*, from points in CA to points in AZ, for 180 days. Supporting shipper(s): Foremost-McKesson Inc., Senior Traffic Analyst, One Post Street, San Francisco, CA 94104. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 146071 (Sub-21TA), filed October 25, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Jack Wolfe, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Meat, meat products, and meat byproducts, and articles distributed by meat packinghouses, as described in Sections A & C of Appendix I to the report in Descriptions in MCC, 61 MCC 209 and 766 (except hides and commodities in bulk)* from facilities of Dubuque Packing, Inc. at LeMars and

Sioux City, IA to points in PA, NE, NH, & MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dubuque Packing, Inc., LeMars, IA 51031. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146071 (Sub-22TA), filed October 22, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Foodstuffs*, from facilities of The Swiss Colony at Monroe, WI to Pittsburgh, and Philadelphia, PA; Hartford, CT; Denver, CO; San Jose, Los Angeles, and Oakland, CA; Maspeth and Buffalo, NY; Parsippany, NJ; Arbutus, MD; Phoenix, AZ; Federal Way, WA; Worcester, MA; and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Swiss Colony, 1112 7th Ave., Monroe, WI 53568. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146401 (Sub-3TA), filed July 24, 1979. Applicant: NEU-WAY, INC., 3766 197th Street, Langley, B.C., Canada V3A 7C1. Representative: Jack Waybourne, same as above. *Contract carrier: irregular routes: Commodities as may be dealt in by material dealers for the drywall, plastering and roofing trades*, between points on the International Border between Washington and British Columbia and Longview and Vancouver, WA, Portland, Salem, Tigard and The Dalles, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bliss Roofing Co., 7415 S.E. 92nd, Portland, OR 97266 and Knez Building Material, 8185 S.W. Hunziller Rd., Tigard, OR 97223. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 147080 (Sub-3TA), filed September 27, 1979. Applicant: WADE FARMS, INC., Route 3, Box 172, Franklin, KY 42134. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. (1) Plastic Bottles from the plantsite of Fortune Plastics, Inc., Franklin, KY, to points in IL, TN, TX, NJ, OH, WI, MN, MI, IN, and Kansas City, MO, and points in its commercial zone, and (2) Polyvinylchloride (PVC), in pellets, from Cleveland, OH and Burlington, NJ, to the plantsite of Fortune Plastics, Inc., Franklin, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mr. G. Mallock, President, Fortune Plastics, Inc., 715 Orange St., Franklin, KY 42134. Send protests to: Ms. Clara L. Eyl, T/A, ICC,

426 Post Office Bldg., Louisville, KY 40202.

MC 147700 (Sub-1TA) (Republication), filed July 27, 1979, previously notice in the Federal Register issue of October 3, 1979. Applicant: TRANSTOR CORPORATION, 3710 Calumet Avenue, Hammond, IN 46320. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Contract, iron and steel articles, and non-ferrous articles*, from A(1) Partage, IN to Northbrook, IL; (2) Northbrook, IL to points in IN, IL, MO, MI (L.P.), WI and MN; (3) Indianapolis, IN to Cincinnati, OH; (4) Middletown, OH to Northbrook, IL and Indianapolis, IN for the account of Fullerton Metals Co., and B(1) from Chicago, IL to IN, MI (L.P.) and KY. (2) Detroit, MI and Louisville, KY and from points in Indiana and Ohio to Chicago, IL for the account of Edgcomb Metals, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fullerton Metals Co., Northbrook, IL. Send protests to: Dave Hunt, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 147960 (Sub-1TA), filed October 9, 1979. Applicant: JAMES WESTERDAHL & SON, Littleton, ME 04730. Representative: Forrest W. Barnes, Box 397, Houlton, ME 04730. Contract: Irregular: (1) *Frozen fruits and frozen vegetables* from the ports of entry on the International Boundary Line between the U.S./Canada at Portland, Houlton and Calais, ME to points in ME, NH, VT, MA, MI, RI, CT, NY, NJ, PA, OH, MD and FL; (2) *Containers* from Putnam, CT, Mansfield, MA and Presque Isle, ME to ports of entry on the International Boundary Line between the U.S./Canada at Portland, Houlton and Calais, ME. An underlying ETA seeks 90 days operating authority. Supporting shipper(s): Christy Crops Inc., Hanscom Terminal, Bedford, MA 01730. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 148150 (Sub-1TA), filed August 24, 1979. Applicant: BROTHERS TRUCKING COMPANY, INC., R.D. 2, Manchester, PA 17345. Representative: John M. Musselman, P.O. Box 1146, 410 N. Third St., Harrisburg, PA 17108. (A) *Iron and steel articles, such as castings, chains, chain attachments, and (B) electric welders, and materials, supplies and equipment used in the installation, operation and maintenance of electric welders* between York, PA on the one hand, and, on the other, points in AL, AR, CA, FL, GA, IL, IN, KY, LA, MD, MA, MN, MS, MO, NC, ND, OH, OK, SC, TN, TX, VA, WA, WV, and WI for 180 days. An underlying ETA seeks 90 days

authority. Supporting shipper(s): Teledyne McKay Co., 850 Grantley Rd., York, PA. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 148220 (Sub-1TA), filed October 15, 1979. Applicant: JEM EQUIPMENT, INC., P.O. Drawer 396, Alma, AR 72921. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. Contract carrier over irregular routes: (1) *Foodstuffs and material, equipment and supplies* used in the manufacture, distribution and sale of foodstuffs, (2) *commodities* the transportation of which are exempt from regulation under the provisions of the Interstate Commerce Act in mixed loads with the commodities described in (1) above, between Baltimore, MD (and points within its commercial zone) and OH, TN, AL, GA, FL, LA, IN, MI, IL, WI, MN, MO, TX, CA and MA; Between Salinas, CA and OR, WA, AZ, UT, CO, NE, KS, OK, TX and MN; between Bremen, IN and CA, CO, CT, FL, GA, IL, IN, KS, LA, MD, MA, MI, MN, MO, NE, NV, NJ, NY, NC, OH, OK, OR, PA, TN, TX and WI, restricted to the movement of traffic moving from. To or between the manufacturing facilities, plants, warehouses, distribution centers, processing and/or manufacturing contractors and shipping and receiving facilities of or used by McCormick & Company, Inc., its division and its subsidiary corporations, and limited to a service performed under continuing contracts with McCormick, Inc., of Baltimore, MD, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): McCormick & Company, Inc., Grocery Products Division, Baltimore, MD 21202. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 148230 (Sub-2TA), filed September 11, 1979. Applicant: J & H GRAIN, INC., P.O. Box 98, Thayer, KS 66776. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. *Feed, dry feed supplements, feed blocks and animal sanitation products* from facilities of Ralston-Purina Co., Kansas City, MO. to Woodson, Allen, Bourbon, Wilson, Neosho, Crawford, Elk, Chautauqua, Montgomery, Labette and Cherokee Counties, KS., for 180 days, common, irregular; Supporting Shipper: Ralston-Purina Co., 2334 Rochester, Kansas City, MO.; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS. 67202. An underlying ETA seeks 90 days authority.

MC 148270 (Sub-4TA), filed October 22, 1979. Applicant: BRELAR, INC., P.O. Box 796, Greenville, MS 38701. Representative: K. Larry Stivers, 1553

Sunridge Cove., Greenville, MS 38701. *Flour and corn meal* from the facilities of Shawnee Milling Co., Shawnee, OK, to points in AL, FL, GA, LA, MS, NC, SC and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shawnee Milling Co., P.O. Box 1567, Shawnee, OK 74801. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 141, Jackson, MS 39201.

MC 148270 (Sub-5TA), filed October 22, 1979. Applicant: BRELAR, INC., P.O. Box 796, Greenville, MS 38701. Representative: K. Larry Stivers, 1553 Sunridge Cove, Greenville, MS 38701. *Plastic resin*, except in bulk, between Hallettsville, TX and Yoakum, TX, on the one hand, and Cordele, GA, Halls, TN, and Mebane, NC, on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): POLYDYNAMICS, INC., P.O. Box 392, Hwy. 90A, Hallettsville, TX 77964. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, Jackson, MS 39201.

MC 148330 (Sub-1TA), filed September 21, 1979. Applicant: HOPKINS TRANSPORTS, INC., 500 South Second St., Stilwell, OK 74960. Representative: Tom Harper, Jr., P.O. Box 43, Ft. Smith, AR 72902. *Petroleum and petroleum products*, in bulk, in tank vehicles, between all points in OK and those parts of AR, MO and KS bounded by a line beginning at Ft. Smith, AR and extending along Hwy. I-40 to Little Rock, AR, then north along Hwy. U. S. 65 to its intersection in MO with I-70, then west along I-70 to its intersection with I-135 in KS, then south along I-135 to its intersection with I-35, then south along I-35 to its intersection with the OK border, for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Approximately 6 supporting shippers. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 148331 (Sub-1TA), filed September 24, 1979. Applicant: MARION TRANSPORT, INC., 265—35th St., Marion, IA 52302. Representative: Richard P. Moore, P.O. Box 1943, Cedar Rapids, IA 52406. Contract carrier, irregular routes. (1) *expanded cellular plastic products* from Marion, IA, to points in GA, NC, and SC; and (2) *equipment, materials, and supplies used in the manufacture of expanded cellular plastic products* from points in GA, NC, and SC to Marion, IA, for 180 days. An underlying ETA seeks 90 days authority. Authority sought would be under contract with PolyCell Industries, Inc. Supporting shipper(s): PolyCell Industries, Inc., 4601—8th Ave., Marion, IA 52302. Send protests to: Herbert W.

Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 148350 (Sub-1TA), filed September 27, 1979. Applicant: IMPERIAL FREIGHT LINES, 1075 No. 10th St., San Jose, CA 95112. Representative: W. H. Walker, 100 Pine St.—Suite 2550, San Francisco, CA 94111. Contract carrier; irregular routes: Such merchandise as is dealt in by natural (or "health") food stores and advertising and packaging materials related thereto; cosmetics, soaps, and cleaning compounds; between the facilities of Evergreen Enterprises, Inc., in Sparks, NV and points in CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Evergreen Enterprises, Inc., 1430 Kleppe Lane, Sparks, NV 89431 and Neo-Life Company of America, 2500 Industrial Ave., Hayward, CA. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 148360 (Sub-1TA), filed October 3, 1979. Applicant: PDR TRUCKING, INC., 6048 South York Rd., Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. Contract carrier-irregular routes; *Ornaments and decorations, and materials and supplies used in the manufacture and sale thereof* between the facilities of Rauch Industries, Inc. located at or near Gastonia, NC, on the one hand, and, on the other, points in the US (except AK and HI) under a continuing contract or contracts with Rauch Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rauch Industries, Inc., 6048 South York Rd., Gastonia, NC 28052. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 148370 (Sub-1TA), filed October 18, 1979. Applicant: TRAFIK SERVICES, INC., 11 Newark Street, Providence, RI 02908. Representative: A. Joseph Mega, same address as applicant. Contract-irregular, *Paper and paper products*, from Brownville, NY to West Springfield, MA; from Brownville, NY to points in RI; and from West Springfield, MA to points in RI. The shipments are restricted to a transportation service to be provided under a continuing contract or contracts with Whitman Products Ltd. of West Warwick, RI and related company, Premoid Corporation of West Springfield, MA, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Whitman Products, Ltd., 21 Brayton Street, West Warwick, RI 02893. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset Street, Room 102, Providence, RI 02903.

MC 148370 (Sub-2TA), filed October 25, 1979. Applicant: TRAFIK SERVICES,

INC., 11 Newark Street, Providence, RI 02908. Representative: A. Joseph Mega, same address as applicant. Contract-irregular, *Steel water tanks of various sizes*, from the plantsite of Amtrol, Inc. at or near West Warwick, RI to plantsite of the Gould Pump Company at or near Seneca Falls, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amtrol, Inc., 1400 Division Road, West Warwick, RI 02893. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset Street, Room 102, Providence, RI 02903.

MC 148351 (Sub-1TA), filed September 28, 1979. Applicant: MANKE BROTHERS TRUCK LINES, 2550 Boynton Lane, Reno, NV 89502. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Insulation materials*, from Orange and Sacramento Counties, CA to points in NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johns-Manville Sales Corp., 2600 Campus Dr., San Mateo, CA 94403. Send protests to: DS W. J. Huetig, ICC, 705 N. Plaza St., Carson City, NV 89701.

MC 148381 (Sub-1TA), filed October 3, 1979. Applicant: PETER HOLMAN TRUCKING, INC., 3504 South Federal Highway, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. Contract Carrier—Irrregular Route: *Such commodities as are dealt in or used by manufacturers or dealers of recreational devices* (except commodities in bulk), between the facilities of Ebonite Corporation, at Miami Lakes, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract with Ebonite Corporation of Miami Lakes, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ebonite Corporation, Billiards & Games Dvsn., 14000 N.W. 57th Crt., Miami Lakes, FL 33014. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 148400 (Sub-1TA), filed October 9, 1979. Applicant: INTERMODAL SERVICES, INC., 11650 Courthouse Blvd., Inver Grove Heights, MN 55075. Representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. (1) *Building construction wall sections, metal*, from Minneapolis, MN to points in NJ, NY, MD, CA, CO, MO, MA, WA, TX and CT; and (2) *Materials, supplies and equipment used in the manufacture of commodities in (1) above* from Detroit, MI, Lawrence, MA, Lyndhurst, NJ, Chicago, IL, Baltimore, MD and Indianapolis, IN to Minneapolis, MN for

180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Flour City Arch Metals, 2637 27th Ave. So., Minneapolis, MN 55438. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 148410 (Sub-1TA), filed September 28, 1979. Applicant: BRAVO TRANSPORT, INC., 1155 Hammond Drive, Suite 4210, Atlanta, GA 30328. Representative: Peter H. Block, 1155 Hammond Drive, Suite 4210, Atlanta, GA 30329. *New furniture, crated and materials used in the manufacture and sale and distribution of new furniture* between Chicago, (ALSIP), IL, and/or Houston, TX, to all points in AR, AZ, CA, CO, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, NV, ND, OH, OK, SD, UT, WI, TN, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S-K Products Corporation, 5355 Bucknell Drive, SW., Atlanta, GA 30338. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Room 300, Atlanta, GA 30309.

MC 148430 (Sub-1TA), filed October 15, 1979. Applicant: ROBERT E. Creager, d.b.a. POISON SPIDER HOT SHOT SERVICE, 3100 Knollwood Drive, Casper, WY 82601. Representative: Robert E. Creager (same address as applicant's). (1) *Machinery, materials, equipment and supplies*, used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by products, and (2) *machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, RESTRICTED against the transportation of complete oil drilling rigs, between points in WY, CO, UT, ID, MT, ND, SD, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are eight (8) shippers. Their statements may be examined at the office listed below, or at Headquarters. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105, Federal Building and Courthouse, 111 South Wolcott, Casper, WY 82601.

MC 148451 (Sub-1TA), filed October 17, 1979. Applicant: HOLSTINE TRUCKING, INC., 125th Old Brighton Road, Henderson, CO 80640. Representative: Edward C. Hastings, 666 Sherman St., Denver, CO 80203. Seafoods, bananas, fruits and

vegetables in temperature-controlled vehicles from Houston and Galveston, TX; Gulfport, MS and New Orleans, LA to points in CO for 180 days. ETA filed seeking 90 days authority. Supporting shipper(s): King Soopers, 3325 Denargo St., Denver, CO 80216. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 148590 (Sub-TA), filed October 15, 1979. Applicant: KCD OF CONNECTICUT, INC., 32 Burnwood Drive (P.O. Box 92), Bloomfield, CT 06002. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. Contract carrier: irregular routes: *Passengers and their baggage, in the same vehicle with passengers*, in round trip, charter operations, between points in Connecticut on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) under a continuing contract with Michael Chaiklin d.b.a. Creative Tours, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Michael Chaiklin d.b.a. Creative Tours, 820 Park Avenue, Bloomfield, CT 06002. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Hartford, CT 06103.

MC 148601 (Sub-TA), filed October 23, 1979. Applicant: GREER, INC., 1821 Greensprings Drive, P.O. Box 1316, Klamath Falls, Oregon 97601. Representative: Jerry R. Woods, Suite 1440—200 S.W. Market Street, Portland, Oregon 97201. Common, Irregular, (1) GYPSUM and (2) FERTILIZER (1) from the facilities of United States Gypsum Company at or near Empire, NV, to points in Modoc and Siskiyou Counties, CA and Klamath and Lake Counties, OR; (2) from the facilities of Valley Nitrogen Producers, Inc. at or near Helm and El Centro, CA, to points in Klamath and Lake Counties, OR, for 180 days. Supporting shipper: Tri-Cord Farm, Inc., Ashland Star Route, Klamath Falls, OR 97601. Send protests to: A. E. Odoms, DS, 114 Pioneer Courthouse, Portland, OR 97204.

#### Motor Carrier of Passengers

MC 2060 (Sub-15TA), filed October 18, 1979. Applicant: PINE HILL-KINGSTON BUS CORPORATION, P.O. Box 1758, Kingston, NY 12401. Representative: Bruce E. Mitchell, Esq., 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Passengers and their baggage, express and newspapers in the same vehicle with passengers*, between Utica, NY and Cooperstown, NY, from Utica over Interstate Hwy. 90 to junction NY Hwy. 28, then over NY Hwy. 28 to Cooperstown, and return over the same

route serving all intermediate points, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Town of Otsego, Fly Creek, NY 13337, East Central New York Regional Tourism, Inc., Herkimer, NY, Fraternal Composite Service, Inc., Utica, NY, and nine individuals. Their statements may be examined at the office listed below and Headquarters. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 144240 (Sub-2TA), filed October 2, 1979. Applicant: D. R. WISMER, d.b.a. BAYSIDE LIMOUSINE SERVICE, P.O. Box 4732, Beaufort, SC 29902. Representative: D. R. Wismer, 605 Broad River Drive, Beaufort, SC 29902. *Passengers and baggage in special and charter operations*, between MCRD, Parris Island, SC, on the one hand, and on the other, Savannah, GA Municipal Airport, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bank of Beaufort Travel Agency, P.O. Box 1047, Beaufort, SC 29902. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 148411 (Sub-1TA), filed October 2, 1979. Applicant: CITY OF ASHLAND, d.b.a. THE ASHLAND BUS SYSTEM, 1700 Greenup Ave., P.O. Box 1839, Ashland, Ky. 41101. Representative: Frank Lucician, Director of Planning & Community Development (same as above). Authority sought to operate as a common carrier, over regular routes, transporting Passengers from, to, or between the following points or described areas: From the corporate limits of Ashland, KY (Boyd County) across the Ashland-Coal Grove Bridge into the Village of Coal Grove, OHIO (Lawrence County), that portion of US Hwy. 52 from the Ashland-Cole Grove Bridge to the Coal Grove Exit; to operate within the Coal Grove commercial zone; from Coal Grove into the contiguous City of Ironton, OH (Lawrence County) and within the Ironton commercial zone; between Ironton, OH and Russell, KY (Greenup County), by way of the Ironton-Russell Bridge. This transit service is proposed to operate between all points in the described territory, in both directions between all points within this territory. Proposed service will also include the transportation of passengers to, from, and within the contiguous incorporated cities of Flatwoods, KY and Russell, KY. (in Greenup County). The entire proposed service area is composed of contiguous communities, bisected by the Ohio River which separates the states of KY & OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper:

Mr. N. L. Wolke, City Manager of Ironton, 4th & Railroad Sts. (P.O. Box 45638), Ironton, OH 43638. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 148441 (Sub-1TA), filed September 27, 1979. Applicant: ES BUS CHARTER SERVICE, INC., Rt. 4, Box 92, Burlington, NC 27215. Representative: James A. Beaty, Jr., 1304 Wachovia Building, Winston-Salem, NC 27101. *Passengers and their baggage in the same vehicle with passengers in round trip charter operations beginning and ending in alamance, Orange, Chatam, Caswell and Rockingham Counties, NC and extending to points in NY, VA, MD, DE, PA, NJ, FL, TN, SC, GA and DC, for 180 days.* Supporting Shipper(s): There are approximately 7-supporting shippers. Their statements may be examined at the office listed below or Headquarters. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

#### Water Carriers of Property

W-1311 (Sub-No. 3 TA). By order entered September 11, 1979, the Motor Carrier Board granted American Pacific Container Line, Inc., San Francisco, CA, 180 days temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of (1) general commodities, in containers, (2) empty containers, (3) chassis singly and in bundles, (4) container lifting spreaders, and (5) sailing vessels, between the Port of Alameda, Arcata, Eureka, Long Beach, Los Angeles, Oakland, Port Chicago, Port Hueneme, Richmond, Sacramento, San Diego, San Francisco and Stockton, CA; Astoria, Coos Bay, Portland and St. Helens, OR; and Bellingham, Kelso, Longview, Port Angeles, Port Townsend, Seattle, Tacoma and Vancouver, WA. M. Kimmerle Culver, 501 Army St., San Francisco, CA 94124, Applicant's representative. Any interested person may file a petition for reconsideration on or before January 4, 1980. Within 20 days after the filing of such petition with the Commission. Any interested person may file and serve a reply thereto.

MC 682 (Sub-17TA), filed August 30, 1979. Applicant: BURNHAM VAN SERVICE, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: W. H. Tomlinson (address same as applicant). *New and used golf carts* between all points in the United States except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Golf Cart Systems, Inc., 2189 Cleveland St., Suite 257, Clearwater, FL 33517. Send protests to:

Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 8973 (Sub-62TA), filed September 24, 1979. Applicant: METROPOLITAN TRUCKING, INC., 2424 — 95th Street, North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Chemicals, except in bulk, from the facilities of Hexagon Enterprises, Inc. at or near Houston, TX, Savannah, GA, Charlestown, SC and Chicago, IL to points in CO, KS, KY, IL, IN, MI, NE, OH, TN and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hexagon Enterprises, Inc., 36 Midvale Road, Mountain Lakes, NJ 07046. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 8973 (Sub-63TA), filed September 12, 1979. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Avenue, North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Plastic film from Gordonsville, VA to Ft. Worth, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Samsill Bros. Plastic Corp., P.O. Box 15066, Ft. Worth, TX 76119. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 11722 (Sub-66TA), filed Sept. 12, 1979. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, 1525 N.E. Weidler St., Portland, OR 97232. *Newsprint paper in rolls* from port of entry at or near Blaine, WA to Kennewick, WA. for 180 days. MC 11722 R 57 Granted 9/6/79 for 30 + 2 expires 12/4/79. A permanent will be filed. An underlying ETA seeks 90 days authority. Supporting shipper: Powell River Alberni Sales Corp., Peoples Nat'l Bank Bldg., Seattle, WA. Send protests to: R. V. Dubay, ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 11722 (Sub-68TA), filed Sept. 17, 1979. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, 1525 N.E. Weidler St., Portland, OR 97232. *Paper cartons, corrugated and noncorrugated* from facilities of Menasha Corporation in Tacoma, WA to Portland, Astoria and Klamath Falls, OR. for 180 days. A corresponding ETA has been filed and a permanent will be filed in the near future. Supporting shipper: Menasha Corporation, 600 Alexander St., Tacoma, WA 98421. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce

Commission, 114 Pioneer Courthouse, Portland, OR.

MC 32882 (Sub-129TA), filed September 12, 1979. Applicant: MITCHELL BROS. TRUCK LINES, 3841 N. Columbia Blvd., P.O. Box 17039, Portland, Oregon 97217. Representative: David J. Lister, 3841 N. Columbia Blvd., P.O. Box 17039, Portland, OR 97217. (1) Telephone equipment and equipment, materials and supplies used in the installation of telephone systems, (2) Empty reels and cores (1) from Omaha, NE to points in OR and WA, (2) From OR and WA to Omaha, NE. (Restriction: Restricted to traffic originating at or destined to the facilities of Western Electric Corp. and further restricted against commodities in bulk.), for 180 days. A permanent is pending. Supporting shipper: Western Electric Co., Inc., Box 14000, Omaha NE 68114. Send protests to: R. V. Dubay, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 32882 (Sub-130TA), filed September 12, 1979. Applicant: MITCHELL BROS. TRUCK LINES, 3841 N. Columbia Blvd., P.O. Box 17039, Portland, OR 97217. Representative: David J. Lister, 3841 N. Columbia Blvd., P.O. Box 17039, Portland, OR 97217. (1) Buildings, complete, knocked down, or in sections; (2) Building sections and building panels, (3) Parts and accessories used in the installation and completion of commodities in (1) and (2) above; and (4) Metal prefabricated structural components and panels and accessories used in the installation and completion of such commodities. Traffic originating at the facilities of Armco, Hanford, CA to points in WA, OR, ID, NV, UT, AZ, CO, MT, WY, ND, SD, NE, KS, OK, NM, and TX. Supporting shipper: Armco, Inc., 703 Curtis St., Middletown, OH 45043. Send protests to: R. V. Dubay, ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 55822 (Sub-19TA), filed August 31, 1979. Applicant: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, OH 45426. Representative: Richard H. Schaefer (same as applicant). *Contract carrier*: Irregular routes: a) *Paint, paint products and titanium dioxide*, from Ashtabula and Huron, OH to points in states on and east of Interstate Hwy 35 and from Huron, OH to Denver, CO. b) Clay, from McIntyre, GA to Huron, OH. c) *Adhesives and caulking compounds*, from Wickliffe, OH to Atlanta, GA; Chicago, IL; Reading, PA and Carrolton, TX. d) *Foodstuffs*, (1) from Sharonville, OH and Shiremanstown, PA to points in states on and east of Interstate Hwy 35 and to Los Angeles, CA (2) from Wolcott, NY to Shiremanstown, PA (3) from Parkesburg, PA to Los Angeles,

CA; Chicago, IL; Sharonville, OH; and Dallas, TX. e) *Typewriters*, from, Cortland, NY to Paramount, CA; Atlanta, GA; Chicago, IL; Dayton, OH; Arlington and Dallas, TX. Restricted: To service from or to the facilities of or utilized by SCM Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: SCM Corp., 900 Union Commerce Bldg., Cleveland, OH 44115. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 69052 (Sub-39TA), filed August 24, 1979. Applicant: REED TRUCKING COMPANY, INC., P.O. Box 216, Milton, DE 19968. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Dry chemicals*, except in bulk, from Syracuse, NY to points in MD and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Robinson Chemical Co., P.O. Box 264, Cambridge, MD 21613. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 69292 (Sub-8TA), filed September 4, 1979. Applicant: ATLAS TRANSPORTATION INC., 8100 Stansbury Rd., P.O. Box 4028, Baltimore, MD 21222. Representative: Chester A. Zyblut, 1030 15th St., N.W. Suite 368, Washington, DC 20005. *Refractory products, materials, and supplies used in the manufacture thereof*, except commodities in bulk, between pts in MD, NJ, and PA. RESTRICTION: Restricted to traffic originating at and/or destined to the facilities of U.S. Refractory, Div. of General Refractories Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: U.S. Refractories, Div. of General Refractories Co., 50 Monument Rd., Bala Cynwyd, PA 19004. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 69833 (Sub-149TA), filed August 13, 1979. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue NW 6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad, 200 Monroe Avenue, NW 6th Floor, Grand Rapids, MI 49503. *Aluminum and aluminum articles*; from the plant side of Extruded Metals Company, Belding, MI to Edgerton, Stoughton and Walworth, WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Extruded Metals, 302 Ashfield, Belding, MI 48809. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 73612 (Sub-5TA), filed August 31, 1979. Applicant: SANDI TRANSPORTATION, INC., 645 Spring Street, Elizabeth, NJ 07201.

Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. (1) Chemicals, dyes, waxes, food preservatives, plastic and plastic articles, pharmaceuticals, resins, plastizers, paper, printing plates, sun glasses, softeners, and acids; and (2) materials, equipment, and supplies used in the manufacture or sale of the commodities in (1) above, between the facilities of the American Hoechst Corporation located at points in NJ; Delaware City, DE; and Cranston, RI on the one hand, and, on the other, points in NJ, NY, CT, MA, RI, MD, PA, DE, VA, NC, SC, GA, IL, IN, OH, and DC for 180 days. Restricted against the transportation of commodities in bulk. An underlying ETA seeks 90 days authority. Supporting shipper: American Hoechst Corporation, Route 202/206, Somerville, NJ 08876. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark NJ 07102.

MC 106603 (Sub-210TA), filed September 25, 1979. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Compressed sawdust logs; from Port Clinton, OH to points in IN, IL, WI, LA, MI, and KY. For 180 days. And underlying ETA seeks 90 days authority. Supporting shipper(s): Agnew Environmental Products, Inc., P.O. Box 1168, Grant's Pass, Oregon 97526. Send protests to: C. R. Flemming, D/S, I.C.C., 201 Corr Building, 300 E. Michigan Ave., Lansing, MI 48933.

MC 107012 (Sub-454TA), filed September 10, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). (1) *Such merchandise as is dealt in by retail, discount and variety stores (except foodstuffs, furniture, and commodities in bulk); and (2) foodstuffs and furniture when moving in mixed loads with those commodities names in (1) above*, from the facilities of Chicago Shippers Association and U.S. Packing and Shipping Co., at or near Jersey City, NJ to points in AL, FL, GA, IL, IN, KS, LA, MI, NC, SC, and TN for 180 days. Supporting shipper: Chicago Shippers Association, Inc., 2 Sixth Street, Jersey City, NJ 07302. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 107012 (Sub-455TA), filed September 14, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box



988, Ft. Wayne, IN 46801.

Representative: Stephen C. Clifford (same address as applicant). *Television Picture Tubes* from Chicago, IL to Springfield, MO for 180 days.

Restriction: the authority is restricted to traffic originating at and destined to the facilities of Zenith Radio Corporation. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zenith Radio Corporation, 1900 North Austin Avenue, Chicago, IL 60639. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 107012 (Sub-456TA), filed September 17, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representative: Stephen C. Clifford (same address as applicant). (1) *appliances and (2) parts, materials, supplies and equipment used in the distribution or repair of appliances*, from the facilities of Whirlpool Corporation at Clearfield, UT to points in CA, NV, OR and WA for 180 days. Supporting shipper: Whirlpool Corporation, 2000 U.S. 33, North, Benton Harbor, MI 49022. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 109533 (Sub-118TA), filed May 18, 1979. Applicant: OVERNITE TRANSPORTATION CO., 1000 Semmes Ave., Richmond, VA 23224.

Representative: John C. Burton, Jr. (same as applicant). *Common; regular: General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and household goods as defined by the Commission, commodities in bulk and those requiring special equipment)* serving the plant site of Schenley Distillers, Inc., at or near Schenley, PA in connection with carriers presently authorized regular route operations for 180 days. Applicant intends to tack authority sought herein with authority held under docket number MC 109533 Sub 84. Supporting shipper(s): Schenley Distillers, Inc., 36 E. Fourth St., Cincinnati, OH 45202. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112962 (Sub-16TA), filed August 28, 1979. Applicant: CRUPPER TRANSPORT CO., INC., 25 South Third, Kansas City, KS 66118. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. (1) *Fibrous glass products and materials, mineral wool, mineral wool products and materials insulated air ducts, insulating products*

*and materials; glass fibre rovings, yarn and strands; glass fibre mats and matings; flexible air duct, (except commodities in bulk), and (2) Materials, equipment and supplies used in the manufacture of commodities named in (1) above (except in bulk)*, from the facilities of CertainTeed Corporation located at or near Kansas City, KS, Kansas City, MO, Lenexa, KS, Olathe, KS and Pauline, KS, to points in LA, MN, MO, ND, OK, SD, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): INSULATION GROUP CERTAINTED CORPN, P.O. Box 860, Valley Forge, PA 19482. Send protests to: Vernon V. Coble, DS, ICC, 800 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 113362 (Sub-365TA), filed August 30, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105 1/2 Eighth Avenue NE, P.O. Box 429, Austin, MN 55912. *Foodstuffs (except in bulk)*, Austin, MN and Beloit, WI to points in TN for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 115092 (Sub-93TA), filed September 11, 1979. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. *Meats* from Evans Meat Company at Laveen, AZ to points in CA, CO, OK, TX, and UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Evans Meat Company, 7201 Southern Avenue, Laveen, AZ 85339. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 116913 (Sub-9TA), filed May 7, 1979. Applicant: Raymond Buis, d.b.a. BUIS TRUCKING, 110 Tandy Ave., Somerset, Ky. 42501. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, Ky. 40602. Contract carrier, irregular routes: Dry Fertilizer, in bulk, from the plantsite of C. F. Industries, Inc., Terre Haute Nitrogen Complex, near Terre Haute, IN, TO points in KY. Supporting shipper(s): O. J. Adams, Area Rep., Ky., Southern States Cooperative, Inc., P.O. Box 13065, Louisville, Ky. 40213. Send protests to: Linda H. Sypher, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 118202 (Sub-140TA), filed September 14, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987.

Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Cheese*, from Green Bay, WI, to Denver and Grand Junction, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Topco Associates, Inc., Traffic Manager, 7711 Gross Point Road, Skokie, IL 60077. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 119522 (Sub-45TA), filed August 31, 1979. Applicant: McLAIN TRUCKING, INC., 2425 Walton St. (P.O. Box 2159), Anderson, IN 46011. Representative: John B. Leatherman, Jr. (same address as applicant). *Glass, glass containers, accessories therefor and fiberboard boxes*, from Dunkirk, Gas City, Hartford City, Indianapolis, Muncie, Richmond and Winchester, IN to points in IL, KY, MI, MO and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH, 43666; Glass Containers Corporation, 1301 South Keystone Avenue, Indianapolis, IN 46203; Kerr Glass Mfg. Corp., P.O. Box 97, Sand Springs, OK 74063; Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 121142 (Sub-21TA), filed August 31, 1979. Applicant: J & G EXPRESS, INC., 489 Julienne St., Jackson, MS 39207. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Memphis, TN and its commercial zone and Greenville, MS, and its commercial zone, serving all intermediate points south of MS Hwy 8, and their commercial zones. From Memphis, TN over U.S. Hwy 61 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Greenville, MS. NOTE: Applicant intends to tack at the Junction of U.S. Hwy 61 and 82 with authority in MC-121142 (Sub 14) and interline with other carriers at Memphis, TN, Jackson, MS, and Greenville, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 10 supporting shipper statements attached to this application. Send protests to: Alan Tarrant, D/S, ICC, Federal Building, Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 123392 (Sub-89TA), Filed September 7, 1979. Applicant: JACK B.



KELLEY, INC., Rt. 1, Box 400, Amarillo, TX 79106. Representative: Austin L. Hatchell, 807 Brazos St., Austin, TX 78701. *Liquid Oxygen, in bulk, in cryogenic trailers*, from Albuquerque, NM; Denver, CO and Oklahoma City, OK to the University of California coal gasification plantsite approximately 20 miles southwest of Gillette, WY, for 180 days. Supporting shipper(s): NCG Industrial Gases, Div. of Liquid Air Corp. of North America, 111 E. Wacker Dr., Chicago, IL 60601. Send protests to: Martha Powell, TCS, Rm. 9A27 Federal Bldg. ICC, 819 Taylor Street, Fort Worth, TX 76102.

MC 126822 (Sub-69TA), filed August 2, 1979. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith, (same as carrier). *Canned goods*, from the facilities of Stanislaus Food Products Company, at or near Modesto, CA to TX, OH, IL, WI and MO., for 180 days. Supporting shipper(s): Stanislaus Food Products Company, P.O. Box 3951, Modesto, CA 95352. Send protests to: Vernon V. Coble, District Supervisor, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 129032 (Sub-107TA), filed August 31, 1979. Applicant: TOM INMAN TRUCKING, INC., 5656 South 129th East Avenue, Tulsa, OK 74134. Representative: David R. Worthington, (same address as applicant). *Kitchen and storage cabinets, and new furniture, knocked down, and parts and accessories thereto*, from the facilities of D & M Wood Products, located at or near Portland, OR, to points in the United States, restricted to traffic originating at the above named location and destined to the above named states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): D & M Wood Products, P.O. Box 20037, Portland, OR 97220. Send protests to: Connie Stanley, ICC, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129032 (Sub-108TA), filed September 10, 1979. Applicant: TOM INMAN TRUCKING, INC., 5656 South 129th East Avenue, Tulsa, OK 74134. Representative: David R. Worthington, (same address as applicant). *Transport racks*, from the facilities of Sooner Fabricating & Sales Company, located at or near Broken Arrow, OK, to the facilities of Associated Grocers located at or near Phoenix, AZ, for 180 days. Supporting shipper(s): Sooner Fabricating & Sales Company, 509-E North Redbud, Broken Arrow, OK 74012. Send protests to: Connie Stanley, ICC, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129032 (Sub-109TA), filed September 5, 1979. Applicant: TOM INMAN TRUCKING, INC., 5656 South 129th East Ave., Tulsa, OK 74134. Representative: David R. Worthington, (same address as applicant). (1) *Wheels, brakes, axle, & axle assemblies, and component parts thereto*; and (2) *materials, equipment and supplies, used in the manufacture of (1) above*, except commodities in bulk, in tank vehicles, between the facilities owned by Kelsey Brake & Axle Division, located at or near Seminole, OK, on the one hand, and, on the other, Dayton, OH, Jackson and Dearborn, MI, Chattanooga, TN, Chicago, IL, Logansport, IN, Montezuma, GA, Elkhart, IN, McMinneville, OR and Chino, CA, restricted to traffic originating at or destined to Kelsey Spring and Axle Division, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kelsey Brake and Axle Division, 307 A Street, Seminole, OK 74868. Send protests to: Connie Stanley, ICC, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129032 (Sub-110TA), filed September 10, 1979. Applicant: TOM INMAN TRUCKING, INC., 5656 South 129th East Avenue, Tulsa, OK 74134. Representative: David R. Worthington, (same address as applicant). *Transport racks*, from the facilities of Sooner Fabricating & Sales Company, located at or near Broken Arrow, OK, to points in the states of AZ, CA, & NM, restricted to traffic originating at or destined to the above named areas, for 180 days. Supporting shipper(s): Sooner Fabricating & Sales Company, 509 E North Redbud, Broken Arrow, OK, 74012. Send Protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136782 (Sub-26TA), filed September 24, 1979. Applicant: R.A.N. TRUCKING COMPANY, P.O. Box 128, Eau Claire, PA. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. A. *Such commodities, as are dealt in by wholesale food business houses when moving from, to, or between such establishments engaged in the wholesaling of food*, from Baltimore, MD to points in PA in and west of Fulton, Huntingdon, Mifflin, Centre, Clinton and Potter Counties and those in OH east of a line beginning at Cleveland, OH, and extending along U.S. 21 to jct. unnumbered Hwy. (formerly portion of U.S. Hwy. 21), then along unnumbered highway through Montrose, Clinton and Canal Fulton OH, to jct. U.S. Hwy. 21 at or near Massillon, then along U.S. Hwy. 21 to jct. U.S. Hwy. 40 from Cambridge, OH, and north of U.S. Hwy. 40 from

Cambridge to the OH-WV State Line, including portions of the highways specified. B. *Meats and lards* from points in PA in and west of Fulton, Huntingdon, Mifflin, Centre, Clinton, and Potter Counties and those in OH east of a line beginning at Cleveland, OH, extending along U.S. Hwy. 21 to jct. unnumbered Hwy. (formerly portion of U.S. Hwy. 21), then along unnumbered highway through Montrose, Clinton and Canal Fulton, OH, to jct. U.S. Hwy. 21 at or near Massillon, then along U.S. Hwy. 21 to jct. U.S. Hwy. 40 at or near Cambridge, OH and north of U.S. Hwy. 40 from Cambridge to the OH-WV State Line, including points on the indicated portions of the highways specified to Washington, D.C. and Baltimore, MD. C. *Packing house products and commodities used or useful in the sale and distribution of such products*, between points in PA in and west of Fulton, Huntingdon, Mifflin, Centre, Clinton and Potter Counties and those in OH east of a line beginning at Cleveland, OH, and extending along U.S. Hwy. 21 to jct. unnumbered Hwy. (formerly portion of U.S. Hwy. 21), then along unnumbered highway through Montrose, Clinton and Canal Fulton, OH, to jct. U.S. Hwy. 21 at or near Massillon, then along U.S. Hwy. 21 to jct. U.S. 40 from Cambridge, OH, and north of U.S. Hwy. 40 from Cambridge to the OH-WV State Line, including portions of the highways specified, on the one hand, and Cumberland, MD on the other. For 180 days.

MC 138493 (Sub-4TA), filed August 10, 1979. Applicant: JAKUM TRUCKING, INC., R.R. 2, Miley Road, Sheboygan Falls, WI 53085. Representative: Michael Wyngaard, 150 E. Gilman St. Madison, WI 53703. Contract carrier; irregular routes; *Foodstuffs*, from Plymouth, Elkhart Lake, Hilbert, Mayville, Eau Claire, Merrill, Waukesha, Beloit, Blanchardville, Kiel, Weyauwega and Milwaukee, WI; Osceola, IA; Franklin Park and Chicago, IL and Faribault, MN to facilities of Crescent Food Co., at or near Hayward, CA under continuing contract(s) with Crescent Food Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crescent Food Co., 22950 Clawitter Rd., Hayward, CA 94545. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 138762 (Sub-48TA), filed September 13, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: D. S. Vincent, (same address as applicant) *Paint products*, in bulk, in tank vehicles, from

ports of entry on the U.S.-Canada International Boundary line at or near Buffalo, NY, and Detroit, MI to Cleveland, OH, restricted to traffic moving in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Canadian Pittsburg Industries, Ltd., 880 Avonhead Rd., Mississauga, ON, CD. Send protests to: Paul J. Labane, DS, ICC, 2802 First Avenue North, Billings, MT 59101.

MC 139923 (Sub-65TA), filed September 24, 1979. Applicant: MILLER TRUCKING CO., INC., P.O. Box Drawer D, Stroud, OK 74079. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Household and commercial laundry and kitchen appliances and related repair parts*, from the facilities of the Maytag Company, at Newton, IA and points in its Commercial Zone, to points in AZ, CA, CO, MT, NV, NM, TX, UT, & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Maytag Co., 403 W. 4th Street N., Newton, IA 50208. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 140763 (Sub-7TA) filed Sept. 14, 1979. Applicant: ONEIDA-COLUMBUS EXPRESS, CO., P.O. Box 356, Oneida, TN 37841. Representative: Marshall Kragen, 1835 K Street, N.W., Washington, D.C. 20006. *Steel strips, in coils*, from Pawtucket, RI to Oneida, TN, for 180 days. Supporting shipper(s): Hightt Industries, Inc., P.O. Box 38, Helmwood, TN 37755. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 144122 (Sub-62TA), filed September 13, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1851 Front Street, Scotch Plains, NJ 07076. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), from Newark, NJ to Los Angeles and San Francisco CA, restricted to the transportation of traffic moving on freight forwarder bills of lading issued by Western Carloading Company, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Carloading Co., Inc., 960 East Third Street, Los Angeles, CA 90013. Send protests to: Joel Morrums, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 147323 (Sub-4TA), filed 9/7/79. Applicant: HADDAD.

TRANSPORTATION, INC., 5000 Wyoming, Dearborn, Michigan 48126. Representative: James F. Schowman, 21925 Garrison, Dearborn, Michigan 48126. *(1) Iron and Steel and iron and steel articles and (2) equipment, material and supplies used or useful in the manufacture, production or distribution of the commodities named in (1) above* (except commodities in bulk and tank vehicles) between the facilities of Northwestern Steel & Wire Company at Sterling, IL on the one hand, and, on the other points in the U.S. (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Northwestern Steel and Wire Company, 121 Wallace St., Sterling, IL 61081. Send protests to: Annie Booker, TA, Room 1386, 219 S. Dearborn St. Chicago, IL 60604.

MC 147693 (Sub-2TA), filed July 6, 1979. Applicant: AIRWAYS LIMO, 2620 4th Street, Coeur d'Alene, ID 83814. Representative: Andrew Newton, (same as above). *Passengers and their baggage, in the same vehicle with passengers*, between Coeur d'Alene, ID and Spokane, WA International Airport, serving all intermediate points, from Coeur d'Alene, ID over U.S. Highway I-90 to Spokane, WA thence over Washington State Highway 2 to Spokane International Airport, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 statements of support attached to this application which may be examined at the ICC in Washington, DC or copies may be examined in the field office named below. Send protest to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 148032 (Sub- TA), filed September 4, 1979. Applicant: J. A. HUNT TRUCKING COMPANY, INC., Rt. 1, Box 646, Red Springs, NC 28377. Representative: John C. Tally, Suite 803, Wachovia Building, Green St., Fayetteville, NC 28302. *Stone and gravel in tractor-trailer dump trucks* from Bennettsville and Brownsville, SC to Whiteville and Butters, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crowell Constructors, Inc., P.O. Box 3645, Fayetteville, NC 28305. Send protest to: Sheila Reece, TA, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 148233 (Sub-1TA), filed August 29, 1979. Applicant: GROTOP TRUCKING COMPANY 3314 S. Lawndale Ave., Chicago, IL 60623. Representative: Edward Bazelon, 39 S. LaSalle St., Chicago, IL 60603. *Such merchandise as is dealt in by wholesale and retail grocery houses* (except in bulk), from

the facilities of Topco Associates, Inc. in Chicago, IL (and its commercial zone) to the facilities of Topco Assoc. at Hutchinson, KS, Springfield, MO, Akron, West Carrollton, Columbus, Youngstown and Dayton, OH, Pittsburgh and Scranton, PA and points in their respective commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Topco Associates, Inc., 7711 Grosse Point Rd., Skokie, IL 60076. Send protest to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

#### Notice No. 207

MC 3062 (Sub-44TA), filed August 20, 1979, and published in the Federal Register issue of October 1, 1979, and republished as corrected this issue. Applicant: INMAN FREIGHT SYSTEM, INC., 321 N. Spring Avenue, P.O. Box 1060, Cape Girardeau, MO 63701. Applicant's representative: Joel H. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Temporary authority sought: To operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment). Territory sought: (1) Between Paducah, KY, and Memphis, TN, from Paducah over U.S. Hwy 45 to junction U.S. Hwy 51, near Fulton, KY, then over U.S. Hwy 51 to Memphis, and return over the same route, serving no intermediate points; (2) between Paducah, KY, and Cairo, IL, over U.S. Hwy 60, serving no intermediate points; (3) between Paducah, KY, and St. Louis, MO, from Paducah over U.S. Hwy 45 to junction Illinois Hwy 146, near Vienna, IL, then over Illinois Hwy 146 to junction U.S. Hwy 51, near Anna, IL, then over U.S. Hwy 51 to junction U.S. Hwy 460 near Ashley, IL, then over U.S. Hwy 460 to E. St. Louis, IL, then across the Mississippi River Bridge to St. Louis, and return over the same route, serving the intermediate points of Metropolis and Vienna, IL, and the off-route point of Joppa, IL; (4) between Paducah, KY, and Evansville, IN, from Paducah over U.S. Hwy 60 to junction U.S. Hwy 41, near Henderson, KY, then over U.S. Hwy 41 to Evansville, and return over the same route, serving no intermediate points, and (5) between junction Illinois Hwy 37 and Illinois Hwy 169, near Grand Chain, IL, and junction Illinois Hwy 169 and U.S. Hwy 45, near Joppa, IL, over Illinois Hwy 169, serving all intermediate points. Supporting shipper(s): There are 19 supporting

shippers which can be examined at the Field Office listed below or the ICC Headquarters in Washington, DC. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101. The purpose of this republication is to show the complete territorial description which was previously omitted.

MC 4963 (Sub-79TA), filed September 26, 1979. Applicant: JONES MOTOR CO., INC., Bridge St. & Schuylkill Rd., Spring City, PA 19475. Representative: William H. Peiffer (same as applicant). *Lumber, lumber products, paper and paper products, iron and steel articles, metals and metal products* between Sumter, SC on the one hand, and, on the other NC, SC, GA, AL, TN, KY, WV, MO, WI, MI, IN, MD, PA, NJ, OH, NY, and DE. Service at Sumter is restricted to plant sites, warehouses and other facilities of Sumter Wood Preserving Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sumter Wood Preserving Co., P.O. Box 637, Sumter, SC 29150. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 24583 (Sub-27TA), filed September 21, 1979. Applicant: FRED STEWART COMPANY, P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. *Plastic pipe and plastic fittings* from the facilities of Can-Tex Industries, Inc., at Columbia, MS, to all points in the U.S. on and east of U.S. Highway 85, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Can-Tex Industries, P.O. Box 340, Mineral Wells, TX 76067. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 24583 (Sub-28TA), filed September 21, 1979. Applicant: FRED STEWART COMPANY, P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. *Plastic pipe and plastic fittings* from the facilities of Can-Tex Industries, Inc., at Sparta, TN, to all points in the U.S. on and east of U.S. Highway 85, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Can-Tex Industries, P.O. Box 340, Mineral Wells, TX 76067. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 24583 (Sub-29TA), filed September 21, 1979. Applicant: FRED STEWART COMPANY, P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. *Plastic pipe and plastic fittings* from the facilities of Can-Tex Industries, Inc., at Magnolia, AR, to all points in the U.S. on and east of U.S.

Highway 85, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Can-Tex Industries, P.O. Box 340, Mineral Wells, TX 76067. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 24583 (Sub-30TA), filed September 21, 1979. Applicant: FRED STEWART COMPANY, P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. *Plastic pipe and plastic fittings* from the facilities of Can-Tex Industries, Inc., at Mineral Wells, TX, to all points in the U.S. on and east of U.S. Highway 85, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Can-Tex Industries, P.O. Box 340, Mineral Wells, TX 76067. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 32083 (Sub-6TA), filed October 22, 1979. Applicant: DONNIE A. DIXON, INC., Rt. 9, Box 378, Greenville, NC 27834. Representative: Peter A. Greene, 900 17th St., NW., Washington, DC 20006. *Cleaning compounds (except in bulk)*, from the facilities of UNX Chemicals, Inc. at Greenville, NC to points in PA, AL, MS, LA, KY, MO, IN, TN, NJ, DE, MD, DC, VA, SC, GA, FL, OH, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): UNX Chemicals, Inc., P.O. Box 7206, Greenville, NC 27834. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm CC516, Charlotte, NC 28205.

MC 47583 (Sub-100), filed October 19, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS. *Mortar and grout (except in bulk)*, from the port of entry on the California-Mexico border at or near Calexico, CA to points in AZ, CA, CO, NV, NM, OR, TX, UT and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Building Products, P.O. Box 6691, Bend, Oregon 97701. Send protests to: Vernon V. Coble, DS, I.C.C., 911 Walnut St., 600 Fed. Bldg., Kansas City, MO 64106.

MC 52793 (Sub-38TA), filed September 26, 1979. Applicant: BEKINS VAN LINES CO., 333 South Center Street, Hillside, IL 60162. Representative: Lawrence E. Lindeman, 425 13th Street NW., Suite 1032, Washington, D.C. 20004. (1) *Artificial trees, shrubbery, wreath decorations and ornaments;* (2) *Venetian blinds;* (3) *Metal and plastic lawn and garden items;* and (4) *Parts, materials, supplies, equipment and machinery used or useful in the fabrication, manufacture or distribution*

*of the items named in paragraphs (1), (2) and (3);* between the facilities of Marathon Carey-McFall Company, in PA, GA and TX, on the one hand, and, on the other, points in the United States (excluding HI and AK) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Marathon Carey-McFall Company, Montoursville, PA 17754. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 52793 (Sub-39TA), filed September 19, 1979. Applicant: BEKINS VAN LINES CO., NEW PRODUCTS DIVISION, 3090 Via Mondo, Compton, CA 90221. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. *Metal Stone Fixtures, Metal Shelving, Display Racks, and Wooden Store Fixtures*, from San Luis Obispo County, CA to AZ, WA, OR, IA, MT, WY, UT, CO, NV, NM and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Syndicate Glass of Calif., P.O. Box 1768, 3230 Riverside Avenue, Paso Robles, CA 93446. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 52953 (Sub-50TA), filed September 10, 1979. Applicant: ET & WNC TRANSPORTATION COMPANY, 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill, 3177 Irving Blvd., Dallas, TX 75247. *Common carrier—regular route: General commodities (except Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving the plantsite of Daystrom Furniture, Inc. at South Boston, VA as an off-route point in connection with carrier's authorized regular routes, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Daystrom Furniture, Inc., Sinai Road, South Boston, VA 24592. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 68123 (Sub-6TA), filed October 25, 1979. Applicant: MARIE R. CAVALLERI d.b.a. M & J TRUCKING, 20 Atlantic Street, Bridgeport, CT 06604. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Common carrier: irregular routes: iron and steel, electrical conduit, pipe and accessories*, from Brooklyn, Ohio to points in the States of CT, ME, MD, MA, NH, NJ, PA, RI and VT, for 180 days. Supporting shipper(s): Republic Steel Corporation, Steel and Tubes Division, 224 East 131st Street, Cleveland, Ohio 44108. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce

Commission, 135 High Street, Hartford, CT 06103.

MC 71593 (Sub-48TA), filed September 18, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 East Second Street, Scotch Plains, NJ 07076. Representative: Ronald S. Potter, 1608 East Second Street, Scotch Plains, NJ 07076. General commodities (except those of unusual value, Class A & B explosives, commodities in bulk, household goods as defined by the Commission and those requiring special equipment) from the facilities of Southeastern Michigan Shippers Co-Operative in MI to Bridgeport, Hartford, CT, Boston, Natick, Worcester, MA, New York, NY, Philadelphia, PA and Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southeastern Michigan Shippers Co-Operative Association, 1448 Wabash Avenue, Suite 406, Detroit, MI 48216. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 98273 (Sub-1TA), filed September 19, 1979. Applicant: DORSEY'S BUS SERVICE, Box 13, Still Pond, MD 21667. Representative: Steve L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Passengers and their baggage, in round trip*, charter operations beginning and ending at points in Kent and Queen Anne Counties, MD and extending to points in ME, NH, MA, CT, RI, NY, NJ, PA, DE, VA, NC, SC, GA, TN, FL, WV, LA, and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 23 supporting shippers. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 99123 (Sub-7TA), filed September 20, 1979. Applicant: QUAST TRANSFER, INC., P.O. Box 7, Winsted, MN 55395. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *General commodities, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, between Minneapolis-St. Paul, MN and points in its commercial zone and Watertown, MN and points in its commercial zone: (1) from Minneapolis-St. Paul, MN over U.S. Highway 12 to Hennepin County Road 6, then over Hennepin County Road 6 and Carver County Road 6 to Watertown, MN, and return over the same route. (2) From Minneapolis-St. Paul, MN over MN Highway 7 to MN Highway 25, then over MN Highway 25 to Watertown, MN, and

return over the same route. (3) From Minneapolis-St. Paul, MN over MN Highway 7 to MN Highway 261, then over MN Highway 261 to McLeod County Road 20, then over McLeod County Road and Carver County Road 20 to Watertown, MN, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Maple Plain Company, Materials Handling Manager, Maple Plain, MN. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 107403 (Sub-1276TA), filed September 27, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes (same as applicant). *Liquid chemicals, in bulk, in tank vehicles*, from Geneva, NY to points in CT, MA, NJ, PA, RI, and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Antical Chemicals, Inc., 61 Gates Avenue, Geneva, NY 14456. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 107403 (Sub-1277TA), filed September 27, 1979. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Liquid chemicals, in bulk, in tank vehicles* from Cartersville, GA to points in AR, LA, & TX; and all pts. in the U.S. on and east of the Mississippi River for 180 days. Supporting shipper: Chemical Products Corp., 48 Atlanta Rd., Cartersville, GA 30120. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 107403 (Sub-1278TA), filed September 19, 1979. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., V.P.—Traffic (same address as applicant). *Dry Plastic Materials, in bulk, in tank vehicles* from Cincinnati, OH to Augusta, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Air Products and Chemicals, Inc., P.O. Box 538, Allentown, PA 18105. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Phila., PA 19106, Room 620.

MC 107403 (Sub-1279), filed September 18, 1979. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Calcium carbonate, in bulk, in tank vehicles* from Adams, MA to Spring Grove, PA for 180 days. An underlying ETA seeks 90 days

authority. Supporting shipper: Pfizer, Inc., 235 E. 42 St., New York, NY 10017. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 107913 (Sub-19TA), filed September 20, 1979. Applicant: F & W EXPRESS, INC., 165 S. Parkway, W., Memphis, TN 38109. Representative: C. N. Finleyson, 165 S. Parkway, W., Memphis, TN 38109. Common carrier; regular route; general commodities (except household goods, Class A & B explosives, commodities in bulk and those requiring special equipment between Little Rock, AR and Monroe-West Monroe, LA as follows: (a) from Little Rock, AR over U.S. Highway 65 to its intersection with U.S. Highway 165 at or near Dermott, AR, thence over U.S. Highway 165 to Monroe-West Monroe, LA and return over the same route serving all intermediate points between Gould, AR and Monroe-West Monroe, LA. (b) from Little Rock, AR over U.S. Highway 65 to its intersection with Interstate Highway 20 at or near Talulah, LA, thence over Interstate 20 to Monroe-West Monroe, LA and return over the same route serving all intermediate points between Gould, AR and Monroe-West Monroe, LA and serving the off route points of Oak Grove, LA and Rohwer, AR. (c) from Little Rock, AR over U.S. Highway 167 to its intersection with Interstate Highway 20 at or near Vienna, LA, thence over Interstate Highway 20 to Monroe-West Monroe, LA, and return over the same route serving all intermediate points between Hampton, AR and Monroe-West Monroe, LA, and serving the off route points of Farmersville, LA. *Restriction:* The authority sought is restricted against transportation of commodities moving between Little Rock, AR and Memphis, TN. Applicant intends to tack the authority herein applied for to other authority held by it in MC-107913 and Subs thereunder. Applicant further intends to interline with other carriers in Memphis, TN, Little Rock, AR, Monroe, LA and Greenville, MS. Supporting shipper(s): Applicant lists 31 supporting shippers. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 110683 (Sub-166TA), filed September 10, 1979. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: MacDonald and McInerny, 1000 Sixteenth St., N.W., Washington, DC 20036. *General commodities, except those of unusual value, class A and B explosives,*

household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, serving Albion, IL and its commercial zone as an off-route point in connection with carriers regular routes, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to interline with other carriers at all present interchange points of applicant. Supporting shipper(s): Luber-Finer, Inc., P.O. Box 8, Albion, IL 62806. Champion Laboratories, Inc., 4th & Walnut Sts., Albion, IL 62806. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112713 (Sub-285TA), filed September 17, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee-Mission, KS 66207. Representative: John M. Records (same as applicant). *Automobile parts, materials and accessories*, Between San Antonio, TX and Laredo, TX. From San Antonio over I-35 to Laredo and return over the same routes, serving no intermediate points. For 180 days. Applicant intends to tack the authority sought with its authority in MC-112713. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chrysler Corporation, Box 1976, Detroit, MI 48288. Ford Motor Company, One Parklane Blvd., Parklane Towers, Suite 200-E, Dearborn, MI 48126. General Motors Corporation, 30007 Van Dyke, Warren, MI 48090. Send protests to: Vernon Coble D/S, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 113843 (Sub-273TA), filed September 26, 1979. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Representative: Lawrence T. Sheils (same address as applicant). *Plastic bags, can liners, plastic containers, plastic articles, plastic film, sheeting, drop cloths, tarps, plastic scrap, materials and supplies used in the manufacture of plastic articles* between (1) Peabody, MA to points in DE, IN, IL, KY, MD, MI, NJ, NY, OH, PA, TN and DC (2) Laurenceburg, TN to points in IL, IN, KY, MA, OH, WV, VA and DC. Restricted to traffic to and from the facilities of Webster Industries. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Webster Industries, Inc., 58 Pulaski St., Peabody, MA 01960. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 113843 (Sub-274TA), filed September 28, 1979. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, MA 02210. Representative: Lawrence T. Sheils

(same address as applicant). *Foodstuffs* (except commodities in bulk) from points in MD to points in FL, MI, MA, NY, PA and OH. For 180 days. Supporting shipper(s): Columbo, Inc., Danton, Drive, Methuen, MA 01844. Send protest to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 114273 (Sub-656TA), filed August 7, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). *Boxes or sheets: fibreboard, paper, paperboard, or pulpboard, NOI, without wooden frames, corrugated*, from the plantsite of Weyerhaeuser Co., at or near Cedar Rapids, IA, to points in MO and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Company, 100 South Wacker Driver, Chicago, IL 60606. Send protest to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-657TA), filed August 27, 1979. Applicant: CRST, INC., 3930 16th Ave., SW, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, P.O. Box 68, Cedar Rapids, IA 52406. *Furnaces, air conditioners, solar collectors, and related parts*, from Columbus, OH to Woburn, MA; Cornwall Heights, PA; Jessup, MD and Boonton, NJ, for 180 days. Supporting shipper(s): Lennox Industries, Inc., Promenade Tower, P.O. Box 400450, Dallas, TX 75240. Send protest to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-658TA), filed August 6, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). *Scrap rubber (except in bulk, in tank vehicles)* from Baltimore, MD, to Terre Haute, IN, for 180 days. Supporting shipper(s): Triangle Bandag, 1252 Second Ave., Marion, IA 52302. Send protest to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-659TA), filed September 20, 1979. Applicant: CRST, INC., P.O. box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). *Weed killing compounds, in bags*, from Mendota, IL, to Minot, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eli Lilly & Company, 1555 S. Kentucky Ave., Indianapolis, IN 46206. Send protests to: Herbert W. Allen, DS, ICC 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-660TA), filed September 6, 1979. Applicant: CRST,

INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). *Boxes or sheets: fibreboard, paper, paperboard, or pulpboard, NOI, without wooden frames, corrugated*, from the plantsite of Weyerhaeuser Co. at or near Cedar Rapids, IA, to Sioux Falls, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Weyerhaeuser Company, 100 S. Wacker Dr., Chicago, IL 60606. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-661TA), filed September 11, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). *Materials, supplies, and equipment used in the manufacturing of aluminum foil products and aluminum scrap* from Lebanon, PA, to Fort Calhoun, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wilkinson Manufacturing Co., 12th and Madison, Ft. Calhoun, NE 68023. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 147602 (Sub-1TA), filed August 7, 1979, and published in the FR issue of October 1, 1979, and republished as corrected this issue. Applicant: Darrell Stauffenberg, d.b.a. STAUFFENBERG TRUCKING, Route 3, Box 222, Kankakee, IL 60901. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. *General commodities*, having a prior or subsequent movement by rail or water (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), and *empty containers*, having a prior or subsequent movement by rail or water, between all points in Illinois on and north of U.S. Highway 36 for 180 days. Supporting shipper: There are 6 supporting shippers. Their applications can be reviewed at the address below or headquarters. Send protests to: Annie Booker, TA, - ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604. The purpose of this republication is to show the complete territorial description.

By the Commission.  
Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37330 Filed 12-4-79; 8:45 am]  
BILLING CODE 7035-01-M



### Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before January 4, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 111274 (Sub-31F) (Republication), filed April 7, 1978, published in the FR issue of July 27, 1978, and republished this issue. Applicant: SCHMIDGALL TRANSFER, INC., P.O. Box 356, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant). A Decision of the Commission, Review Board Number 1, decided February 8, 1979, that operations by applicant will be consistent with the public interest and the national transportation policy to operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *grain drying, handling and storage equipment, flail equipment, field refueling systems* and (b) *materials, supplies, components and accessories* for the commodities in (a) above, (except in bulk, in tank vehicles) between the facilities of Mathews Company in IL, IA, NE, WA, CA, PA, IN, MA, GA, CT, and MN, on the one hand, and, on the other, points in the US (except AK and HI); and (2) between the facilities of Mathews Company in IL, IA, NE, WA, CA, PA, IN, MA, GA, CT and MN, under a contract with Mathews Company, of Crystal Lake, IL; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S.C., and the Commission's regulations. The purpose of this republication is to indicate the actual grant of authority.

MC 113855 (Sub-386F) (Republication), filed August 25, 1977, published in the FR issue of September 29, 1977, and republished this issue. Applicant:

INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55901. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58102. A Decision of the Commission, Division 2, decided July 6, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting *mechanical work platforms*, between the facilities of Mark Industries, Inc., in Los Angeles County, CA, on the one hand, and, on the other, points in the United States (including AK, but excluding HI); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to reflect service from points in Los Angeles County.

MC 136155 (Sub-6F) (Republication), filed March 21, 1978, published in the Federal Register issue of May 11, 1978, and republished this issue. Applicant: GAY TRUCKING COMPANY, a corporation, P.O. Box 7179, Savannah, GA 31408. Representative: William P. Sullivan, Suite 500, 1320 Fenwick, Silver Spring, MD 20910. A Decision of the Commission, Review Board Number 2, decided November 28, 1978, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, transporting *electrolytic copper in cathodes*, between Savannah and Carrollton, GA, restricted to the transportation of traffic having a prior or subsequent movement by water; that applicant is fit, willing and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations thereunder. The purpose of this republication is to clarify the commodity description.

MC 136605 (Sub-72F) (Republication), filed September 26, 1978, published in the Federal Register issue of November 16, 1978, and republished this issue. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). A Decision of the Commission, Review Board Number 4, decided August 28, 1979, finds that the present and future public convenience and necessity require applicant to operate as a *common carrier*, by motor vehicle, in interstate or foreign

commerce, over irregular routes, transporting *exterior heating and cooling units*, from the facilities of Lear Siegler/Mammoth Division, at or near Minneapolis, MN, to points in the United States in and west of ND, SD, NE, KS, OK and TX (except AK and HI); that applicant is fit, willing and able properly to perform the granted service and to conform to the statutory and administrative requirements. The purpose of this republication is to clarify the commodity description.

MC 141804 (Sub-113F) (Republication), filed May 22, 1978, published in the Federal Register issue of July 25, 1978, and republished this issue. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, TN 37072. Representative: Frederick J. Coffman (same address as applicant). A Decision of the Commission, Review Board Number 3, decided April 23, 1979, finds that the present and future public convenience and necessity require operations by applicant as a *common carrier*, by motor vehicle, interstate or foreign commerce, over irregular routes, transporting *cosmetics, hair care products, toilet preparations, and skin care products*, between Pomona, CA, St. Paul, MN, South Plainfield, NJ, and Raeford, NC, restricted against the transportation of commodities in bulk, in tank vehicles; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code and the Commission's regulation. The purpose of this republication is to substitute service to Raeford, NC in lieu of Ridgefield, NJ.

MC 145455F (Republication), filed September 26, 1978, published in the Federal Register issue of November 14, 1978, and republished this issue. Applicant: BULK TRANSPORTATION, a corporation, 415 Lemon Avenue, Walnut, CA 91789. Representative: Melvin G. Thurman (same address as applicant). A Decision of the Commission, Review Board Number 5, decided June 25, 1979, that operations by applicant will be consistent with the public interest and the national transportation policy to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *liquid animal feed preparations, supplements, and additives*, in bulk, in tank vehicles, from points in California, to points in Arizona, under continuing contracts with Snow Commodities Company, Inc., of South Pasadena, CA, Bert-Hawkins and Associates, of Long Beach, CA, and Baker Commodities, Inc., of Los Angeles, CA; that applicant is fit, willing, and



able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to reflect a change in supporting shippers from Pacific Kenyon Corporation, of Long Beach, CA to Bert-Hawkins and Associates, of Long Beach, CA.

FF 504 (Sub-1F) (Republication), filed August 17, 1978, published in the Federal Register issue of November 14, 1978, and republished this issue. Applicant: GRAY INTERNATIONAL FORWARDING, INC., 1290 South Pearl Street, Denver, CO 80210. Representative: Nancy P. Bigbee, 1600 Lincoln Center Bldg., 1600 Lincoln Street, Denver, CO 80264. A Decision of the Commission, Review Board Number 4, decided October 9, 1979, finds that operation by applicant as a *freight forwarder*, in interstate commerce, will be consistent with the public interest and the national transportation policy, transporting (a) *used household goods, unaccompanied baggage*, and (b) *used automobiles*, between points in the United States (including AK and HI); that applicant is fit, willing, and able properly to perform such service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect the actual grant of authority.

Agatha L. Mergenovich,  
*Secretary.*

[FR Doc. 79-37360 Filed 12-4-79; 8:45 am]

BILLING CODE 7035-01-M

# Sunshine Act Meetings

Federal Register

Vol. 44, No. 235

Wednesday, December 5, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

[S-2360-79 Filed 12-3-79; 3:38 pm]  
BILLING CODE 6320-01-M

## CONTENTS

	Items
Civil Aeronautics Board.....	1, 2
Commodity Futures Trading Commission.....	3
Federal Communications Commission.....	4, 5
Federal Deposit Insurance Corporation.....	6, 7
Federal Election Commission.....	8
Federal Reserve System.....	9
Nuclear Regulatory Commission.....	10
Occupational Safety and Health Review Commission.....	11-13
Overseas Private Investment Corporation.....	14
Postal Rate Commission.....	15

1

[M-258; Amdt. 1, Nov. 30, 1979]

### CIVIL AERONAUTICS BOARD.

Deletion of item from the December 6, 1979, meeting agenda.

**TIME AND DATE:** 9:30 a.m., December 6, 1979.

**PLACE:** Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

**SUBJECT:** 12. Dockets 36445 and 36538, Air Pacific's notice to suspend service at Chico, California. (BDA)

**STATUS:** Open.

**PERSON TO CONTACT:** Phyllis T. Kaylor, the Secretary (202) 673-5068.

**SUPPLEMENTARY INFORMATION:** The Board would like to act on Item 12 before the December 6, 1979 Board meeting so that they can authorize emergency, temporary compensation to Westair to provide Chico's essential air service. In order to discuss this Item before December 6, 1979, a Board meeting will be held on Tuesday, December 4, 1979. Accordingly, the following Members have voted that Item 12 be deleted from the December 6, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia

2

[M-258, Amdt. 1; Nov. 30, 1979]

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Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

[S-2361-79 Filed 12-3-79; 3:38 pm]  
BILLING CODE 6320-01-M

3

### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:00 a.m., Friday, December 14, 1979.

**PLACE:** 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Briefing.

**CONTACT PERSON FOR MORE INFORMATION:** Jane Stuckey, 254-6314.

[S-2355-79 Filed 12-3-79; 12:00 pm]  
BILLING CODE 6351-01-M

4

**FEDERAL COMMUNICATIONS COMMISSION.**  
**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** 9:30 a.m., Tuesday, December 4, 1979.

**PLACE:** Room 856, 1919 M Street, N.W., Washington, D.C.

**STATUS:** Closed Commission Meeting following Open Commission Meeting which commences at 9:30 a.m.

**CHANGES IN THE MEETING:** Additional item to be considered.

#### Agenda, Item No., and Subject

General—2—*Writers Guild of America v. FCC*, Case No. 77-1058.

Additional information concerning this item may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: December 3, 1979.

[S-2362-79 Filed 12-3-79; 3:28 pm]  
BILLING CODE 6712-01-M

5

**FEDERAL COMMUNICATIONS COMMISSION.**  
**TIME AND DATE:** 9:30 a.m., Thursday, December 6, 1979.

**PLACE:** Room 856, 1919 M Street, N.W., Washington, D.C.

**STATUS:** Special Open Commission Meeting.

#### MATTERS TO BE CONSIDERED:

#### Agenda, Item No., and Subject

Private Radio—1—Title: Report to Congress on High Seas Public Coast Station Operations, Services and Industry (Gen. docket No. 79-189). Summary: The FCC will consider whether to approve and transmit a Report to Congress on high seas public coast station operations, services and industry (Gen. Docket No. 79-189). The report has been prepared in response to Section 506 of the International Maritime Telecommunications Act, Public Law No. 95-564 (November 1, 1978), mandating a study of public maritime coast station services with particular emphasis on high seas communications. The Commission's initial Report to Congress in this matter was submitted on November 1, 1979.

Private Radio—2—Title: Consolidation of Authority for Public Coast Station Regulation in the Private Radio Bureau. Summary: The FCC will consider whether to adopt a consolidation of authority for regulation and licensing of public coast stations in the Private Radio Bureau. Authority is currently split between the Private Radio Bureau and the Common Carrier Bureau. The Commission will

consider whether an investigation into the common carrier status of public coast stations should ensue and whether the public would be better served by a single bureau having full responsibility for public coast stations. The Commission will also decide whether to include a recommendation of consolidation of responsibility in its report to Congress on Docket 79-189, Inquiry into High Seas Public Coast Station Operations, Services and Industry, due December 17, 1979.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: November 30, 1979.

[S-2363-79 Filed 12-3-79; 3:38 pm]

BILLING CODE 6712-01-M

6

#### FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 11:00 a.m. on Monday, December 10, 1979, to consider the following matters:

Disposition of minutes of previous meetings.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum re: Fidelity Bank, Utica, Mississippi.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: December 3, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

*Executive Secretary.*

[S-2353-79 Filed 12-3-79; 12:00 pm]

BILLING CODE 6714-01-M

7

#### FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:30 a.m. on Monday, December 10, 1979, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

Clovis Community Bank, a proposed new bank, to be located at 430 Pollasky Avenue, Clovis, California, for Federal deposit insurance.

Michigan Bank-North, a proposed new bank, to be located at 730 Charlevoix Street, Petoskey, Michigan, for Federal deposit insurance.

Application for consent to establish a branch:

Lloyds Bank California, Los Angeles, California, for consent to establish a branch in the 4300 Block of MacArthur Boulevard between Birch Street and Von Karmon Avenue, Newport Beach, California.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,144-NR—United States National Bank, San Diego, California.

Case No. 44,159-L—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Memorandum re: Republic National Bank, New Orleans, Louisiana.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions,

administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Reports of committees and officers:

Audit Report: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico, dated June 8, 1979.

Audit Report: Franklin National Bank, New York, New York, dated June 28, 1979.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: December 3, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

*Executive Secretary.*

[S-2354-79 Filed 12-3-79; 12:00 pm]

BILLING CODE 6714-01-M

8

#### FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO. 2325.

PREVIOUSLY ANNOUNCED DATE & TIME: Wednesday, December 5, 1979 at 10:30 a.m.

CHANGE IN MEETING: The following matter has been added to the agenda: Final Audit Report—Roger Lea MacBride and all authorized committees.

FEDERAL REGISTER NO. 2336

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, December 6, 1979 at 10:00 a.m.

CHANGE IN MEETING: The following items have been added to the agenda:

1. Draft AO 1979-63: Cooper T. Holt, Director, VFW Political Action Committee.
2. Draft AO 1979-64: John W. Jennette, Jr.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone 202-523-4065.

Majorie W. Emmons,  
*Secretary to the Commission.*

[S-2348-79 Filed 11-30-79; 3:02 pm]

BILLING CODE 6715-01-M

9

#### FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Monday, December 10, 1979.

**PLACE:** 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Request by the General Accounting Office for Board comment on a draft report concerning Federal Reserve administration of the 1970 Bank Holding Company Act Amendments.

2. Any agenda items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 462-3204.

Dated: November 30, 1979.

Griffith L. Garwood,

*Deputy Secretary of the Board.*

[S-2351-79 Filed 12-3-79; 9:18 am]

BILLING CODE 6210-01-M

10

**NUCLEAR REGULATORY COMMISSION.**

**TIME AND DATE:** Week of December 3.

**PLACE:** Commissioners' Conference Room, 1717 H. St., N.W., Washington, D.C.

**STATUS:** Open and Closed.

**MATTERS TO BE CONSIDERED:**

Monday, December 3; 2:00 p.m. (Revised)

1. Affirmation of Use of Shorter Pilings at Bailly (approximately 10 minutes, open/closed as necessary).

2. Affirmation of UCS Petition (tentative) (approximately 5 minutes, public meeting).

The other item originally scheduled for December 3 was postponed.

Thursday, December 6; 1:30 p.m.

1. Briefing on Policy, Planning and Program Guide (approximately 2 hours, public meeting).

Friday, December 7

9:30 a.m.

Discussion of Management-Organization and Internal Personnel Matters (approximately 2½-hours, closed—exemptions 2 and 6).

1:30 p.m.

1. Discussion and Vote on UCS Petition (approximately ½hour, public meeting).

2. Discussion of Improving Commission Procedures (approximately 1½ hours, public meeting, tentative).

3:30 p.m.

Joint NRC/ACRS Meeting (approximately 1 hour, public meeting). (Proposed topics: Pause in Plant Licensing; NRC Safety Research Budget; Review of Licensee Event Reports.)

**CONTACT PERSON FOR MORE**

**INFORMATION:** Walter Magee, 202-634-1410.

Walter Magee,

*Office of the Secretary.*

[S-2356-79 Filed 12-3-79; 3:05 pm]

BILLING CODE 7590-01-M

11

**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.**

**TIME AND DATE:** 10:00 a.m. on December 6, 1979.

**PLACE:** Room 1101, 1825 K Street, N.W., Washington, D.C.

**STATUS:** Because of the subject matter, it is likely that this meeting will be closed.

**MATTERS TO BE CONSIDERED:** Discussion of specified cases in the Commission adjudicative process.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Ms. Patricia Bausell (202) 634-4015.

Dated: December 3, 1979.

[S-2357-79 Filed 12-3-79; 3:05 pm]

BILLING CODE 7600-01-M

12

**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.**

**TIME AND DATE:** 10:00 a.m. on December 13, 1979.

**PLACE:** Room 1101, 1825 K Street, N.W., Washington, D.C.

**STATUS:** Because of the subject matter, it is likely that this meeting will be closed.

**MATTERS TO BE CONSIDERED:** Discussion of specific cases in the Commission adjudicative process.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Ms. Patricia Bausell (202) 634-4015.

Dated: December 3, 1979.

[S-2358-79 Filed 12-3-79; 3:05 pm]

BILLING CODE 7600-01-M

13

**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.**

**TIME AND DATE:** 10:00 a.m. on December 20, 1979.

**PLACE:** Room 1101, 1825 K Street, N.W., Washington, D.C.

**STATUS:** Because of the subject matter, it is likely that this meeting will be closed.

**MATTERS TO BE CONSIDERED:** Discussion of specific cases in the Commission adjudicative process.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Ms. Patricia Bausell (202) 634-4015.

Dated: December 3, 1979.

[S-2359-79 Filed 12-3-79; 3:05 pm]

BILLING CODE 7600-01-M

14

**OVERSEAS PRIVATE INVESTMENT CORPORATION.**

**TIME AND DATE:** Meeting of the OPIC Board of Directors: Tuesday, December 11, 1979, at 9:00 a.m. (closed portion), 10:15 a.m. (open portion).

**PLACE:** Offices of the Corporation, seventh (7th) floor Board Room, 1129 20th Street N.W., Washington D.C.

**STATUS:** The first part of the meeting from 9:00 a.m. to 10:15 a.m. will be closed to the public. The open portion of the meeting will start at 10:15 a.m.

**MATTERS TO BE CONSIDERED:**

Closed to the Public (9:00 a.m. to 10:15 a.m.)

1. Finance Project in Central American Country.

2. Insurance Project in African Country.

3. Insurance Project in East Asia Country.

4. Claims Report.

5. Insurance and Finance Reports.

6. Information Report: Projects Committed FY 1979.

**FURTHER MATTERS TO BE CONSIDERED:**

Open to the Public (10:15 a.m.)

1. Approval of the Minutes of the Previous Board Meeting.

2. Confirmation of scheduled Board Meetings.

3. Insurance for Investments in Projects Involving Host Government Ownership or Guaranties.

4. Information Reports.

**CONTACT PERSON FOR INFORMATION:**

Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 632-1839.

Dated: November 30, 1979

Elizabeth A. Burton,

*Corporate Secretary.*

[S-2350-79 Filed 11-30-79; 4:27 pm]

BILLING CODE 3210-01-M

15

**POSTAL RATE COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 44 FR 67291, November 23, 1979.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE CLOSED MEETING:** 9:30 a.m., December 3, 1979.

**CHANGES IN THE MEETING:** Meeting date and time changed to 2:00 p.m., December 6, 1979. Meeting remains closed pursuant to 5 U.S.C. 552b(c)(10).

**CONTACT PERSON FOR MORE**

**INFORMATION:** Dennis Watson, 202-254-5614.

[S-2352-79 Filed 12-3-79; 10:03 am]

BILLING CODE 7715-01-M

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Wednesday  
December 5, 1979

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**Part II**

**Department of  
Health, Education,  
and Welfare**

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**Office of Human Development Services**

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**Grants to Indian Tribal Organizations for  
Social and Nutrition Services**

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Human Development Services

### 45 CFR Part 1328

## Grants to Indian Tribal Organizations for Social and Nutrition Services

**AGENCY:** Office of Human Development Services (HDS), HEW.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Administration on Aging (AoA), in the Office of Human Development Services, is proposing regulations for a new program for older Indians authorized by Title VI of the Older Americans Act, as amended. The purpose of the "Grants to Indian Tribal Organizations" program is to promote the delivery of social services, including nutrition services, to Indians comparable to services provided through grants for State and community programs on aging. Eligible tribal organizations will be able to apply for direct funding to pay the costs of providing social and nutrition services to Indians age 60 and older, and to acquire, alter, construct or renovate multipurpose senior centers.

**DATES:** Closing Date for receipt of comments is February 4, 1980.

**ADDRESS:** Comments may be mailed or delivered to: Administration on Aging, HEW North Building, Room 4748, 330 Independence Avenue SW., Washington, D.C. 20201; between 9 a.m. and 4 p.m., Monday through Friday, except holidays. Agencies and organizations are requested to submit comments in duplicate. Beginning two weeks from today, comments may be inspected in Room 4748 between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Frances M. Holland, Division of State and Community Programs, HEW North Building, Room 4643, 330 Independence Avenue SW., Washington, D.C. 20201, (202) 472-3058.

### SUPPLEMENTARY INFORMATION:

#### Background

#### *History of the Older Americans Act (OAA)*

The OAA was originally enacted in 1965. It authorized grants to State agencies on aging to start community-based social service projects for older Americans.

The Act was amended seven times between 1965 and 1978. The most significant amendments were passed in

1972 and 1973. In 1972, Title VII authorized a nutrition program and funds were awarded to local community projects to provide nutrition services to older persons. In 1973, the Title III social service program was revised substantially to provide for better organization at the State and local levels. The 1973 amendments also added a new Title V to the Act, which authorized direct grants to local community agencies to pay part of the cost of acquiring, renovating, altering, and initial staffing of facilities for use as multipurpose senior centers.

The 1975 amendments specified that four priority services be included in State plans: transportation, home services, legal services, and residential repair and renovation. These amendments also added a new section 303(b)(3)(A) to the Act. This section authorized the Commissioner to withhold a portion of a State's allotment and to grant it directly to an Indian tribe if he or she determined that that State had failed to provide benefits to older Indians that were equivalent to those provided to non-Indian older persons, and that the Indians would be better served by a direct grant. This provision was never used.

#### *The 1978 Amendments*

The President signed the Comprehensive Amendments to the Older Americans Act on October 18, 1978 (Pub. L. 95-478). These amendments restructured and reorganized the OAA programs by consolidating the separate social services, senior centers, and nutrition services programs.

The 1978 amendments also enacted Title VI, a new direct grant program to Indian tribal organizations for older Indians. Title VI is, in large part, the result of Congressional response to initiatives by several national Indian organizations who were spurred by the inequities older Indians were experiencing in the lack of services being received under the OAA.

#### *Public Participation in Developing the Proposed Rules*

AoA began to involve the public in developing these proposed regulations immediately after the enactment of the 1978 amendments. Several meetings were held in October, 1978, with staff from the National Indian Council on Aging (NICOA.)

These meetings were followed by a two-day meeting on November 13 and 14, 1978, attended by representatives from AoA, NICOA, the National Tribal Chairman's Association (NTCA), the Administration for Native Americans

(ANA), the Bureau of Indian Affairs (BIA), the Indian Health Service (IHS), and the Intradepartmental Council on Indian Affairs. This group developed specific recommendations regarding the policy and program directions for the Title VI program for older Indians. These were carefully considered and many have been used in these proposed regulations.

Since that time, AoA staff has consulted frequently with NICOA. Additionally, AoA staff has conducted several onsite visits to Indian reservations to consult directly with tribal governments and staff that provide social and nutrition services to older Indians. These onsite visits confirmed most of the NICOA recommendations.

We began the process of broad public involvement in developing the proposed regulations for Title III Grants for State and Community Programs on Aging at the same time that we began the process for Title VI. AoA published a notice in the Federal Register on January 31, 1979 (44 FR 6155) of its decision to develop regulations for Title VI.

#### Organization of These Proposed Rules

This Notice of Proposed Rulemaking contains all the program regulations necessary to implement Title VI of the Older Americans Act, as amended. Proposed regulations for Title III were published in the Federal Register on July 31, 1979 (44 FR 45032). Since many of the provisions of these proposed regulations are similar to those in the proposed Title III regulations, we considered cross-referencing in these regulations to the Title III regulations. However, we decided that the Title VI regulations would be easier to use if all the requirements for Title VI were set forth in one place. The proposed Title III regulations should be read together with these regulations.

These regulations are grouped under five headings: The Introduction (§§ 1328.1 through 1328.5) described the basis and scope of the program for Indians, age 60 and over. It also contains the definitions applicable to part 1320 and other departmental regulations. The Sections on eligibility and tribal organization responsibilities (§§ 1328.7 and 1328.9) include the requirements that a tribal organization must meet in order to be eligible and to receive a Title VI grant. The Sections on required and optional services (§§ 1328.11 through 1328.21) specify the services that a tribal organization must provide if it receives a Title VI grant, and those which are optional. Separate sections specify the requirements that must be met in



providing nutrition, legal, information and referral, and ombudsman services.

The Sections on Indian multipurpose senior centers §§ 1328.23 through 1328.29] provide that Title VI funds may be used to acquire, alter, renovate, lease, and staff a multipurpose center. Definitions applicable to these activities are included. Use requirements and construction and safety standards that must be complied with, are set forth, as are requirements for funding for surplus educational facilities from the Bureau of Indian Affairs. The Sections on application requirements (§§ 1328.31 through 1328.41) specify preapplication and application procedures and procedures for application disapproval, technical assistance, and appeals.

#### Major Issues

##### 1. Relationship Between Titles VI and III

The Act establishes the general relationship between Titles VI and III in the statements of purpose for each Title. Section 601 states "It is the purpose of this Title to promote the delivery of social services, including nutrition services, for Indians that are comparable to services provided under Title III." In the statement of purpose for Title III, state and local agencies are charged with the responsibility of planning and providing social and nutrition services, and multipurpose senior centers, in order in part to "secure and maintain maximum independence and dignity in a home environment for older individuals \* \* \*

We have spent a great deal of time and effort analyzing the relationship between the provisions of Title III and Title VI. We think that it is necessary to understand the Title III program in order to understand Title VI. The objectives of Title III relative to assuring maximum independence and well-being for all older persons are, we believe, equally valid goals for Title VI. The unique characteristic of Title VI is that it is designed to accomplish these goals for older Indians through direct Federal grants to Indian tribal organizations, rather than through State and area agencies.

There is a basic idea of parallelism to Title III in Title VI; but we have been conscious in the development of these regulations not to extend this parallelism too far. We have recognized the unique cultural differences of the Indian population and the necessity, therefore, in a number of cases, to propose choices in favor of what is most suited to the special needs of older Indians living in the context of their culture. These proposed choices are

explained in detail in our discussion of the service provisions of these proposed regulations. As in Title III, benefits derived from the Title VI program cannot be considered as a part of an older Indian's personal income qualifying for other Federal program benefits.

At certain points, Title III and Title VI intersect, rather than run along parallel lines. There are questions, for instance, concerning the eligibility of older Indians for services under Title III in those circumstances where a tribal organization "represents" those older Indians for purposes of Title VI. The distinctions proposed in these regulations between "tribe" and "tribal organization" also have a bearing on Title III because of the continuing responsibility which an area agency has for older Indians who are members of a "tribe" but are not represented by a "tribal organization" under Title VI.

From a funding perspective, there are also points at which Title III and Title VI intersect. For example, title VI does not become operational unless at least \$5 million is appropriated for it. This fact has a direct bearing on the Title III program, and most particularly on the decisions which State and area agencies must make in the development of their State and area plans. State and area agencies must be aware, not only whether there is an appropriation for Title VI, but also whether the individual Indian tribal organizations in their area of responsibility will apply for Title VI funding or seek to be considered under Title III. Related to this, Title VI requires a reallocation from States of an amount of Title III funds "attributable to" the Indians served under Title VI who were also counted for purposes of the State's Title III allotment.

##### 2. Services Required Under Title VI

Section 604 of the Act establishes specific relationships between the service requirements for Titles VI and III in three instances. Section 604(a)(9) requires full compliance with certain Title III requirements concerning the acquisition, alteration, renovation and construction of multipurpose senior centers. Sections 604(a)(8) and (10) require that nutrition, legal and ombudsman services provided under Title VI be delivered or made available "substantially in compliance" with the provisions of Title III.

One major issue is the meaning of "substantially in compliance." We think we have the discretion to interpret "substantially in compliance" to mean that tribal organizations under Title VI would only need to meet certain essential requirements for service

delivery. These proposed regulations set forth those requirements, but omit many Title III service delivery requirements that are not specifically required by Title VI. Significant Title III service delivery requirements which we have omitted include the requirement for preference for those with greatest economic or social need (§ 1321.109), and the requirement for development of a comprehensive and coordinated service delivery system (§ 1321.75). We think the proposed regulations should and do give the tribal organizations considerable flexibility to administer this new Title VI program by allowing them to select the methods of delivering the services, and to provide additional services beyond those required by the Act.

Section 604(a)(6)(8) and (10) of the Act requires a tribal organization to provide for four services: Nutrition, legal, ombudsman, and information and referral.

We are proposing the following requirements for each of the four statutorily required services:

- *Nutrition Services (Section 1328.15).* Section 307(a)(13)(B) of the Act requires that a nutrition program funded under Title III must provide meals in a congregate setting. This requirement developed out of demonstration projects that showed that eating together has a social function and that congregate meals is one method of breaking the isolation common to older individuals.

Though traditions vary from tribe to tribe, it is clear that congregate meals on a daily basis are not a common Indian tradition. Through experience and discussions with NICOA, we have learned that in many Indian tribes with nutrition programs funded under the OAA, older Indians are apparently faced with the dilemma of either going against their own traditional way of eating, or of not participating in the program. We have also been told by staff at nutrition sites on reservations that older Indians frequently live in remote areas, and it is difficult, often impossible, for them to come to a centrally located site. For these reasons, the proposed regulations allow the tribal organization to decide whether to serve meals at home; in a congregate setting; or both.

- *Legal Services (Section 1328.17).* We have adopted many of the general legal services requirements in the proposed Title III regulations. Although we have adopted the requirements for coordination with Legal Services Corporation grantees, and with members of the private bar, we have not included the requirement that services funded under the OAA be concentrated

on those with greatest economic or social need. We would also not require the tribal organizations to award legal services funds to whichever grantee it determined met most fully the general requirements for Title III providers specified in §§ 1321.105 through 1321.115 of the proposed Title III regulations. These requirements, such as preference to those with greatest economic or social need, and maintenance of non-Federal support for services, are generally not applicable to Title VI. In addition, these requirements might make it more difficult for the tribal organization to implement the Indian preference for subgrants and contracts required by Section 7(b) of the Indian Self Determination Act and contained in these proposed regulations at § 1328.13(b)(i).

For a full discussion of the issues regarding legal services, read the preamble of the proposed Part 1321 in the Federal Register, of July 31, 1979, beginning on page 45040.

• *Information and Referral Services (Section 1328.19).* Section 604(a)(6) of the Act requires each applicant to provide for information and referral (I&R) services. We propose to adopt the Title III requirement that I&R must be provided in the language spoken by the older individuals, if a significant number of older Indians do not use English as their principal language. We also propose to require the tribal organization keep a list of requests for services so this information can be used as the basis for planning and developing the Title VI program, both locally and nationally.

• *Ombudsman Services (Section 1328.21).* We propose for several reasons to limit the requirement to provide ombudsman services to those tribal organizations whose designated service area includes a long-term care facility. First, we are not sure how ombudsman services should function on a reservation. Second, requiring a tribal organization to provide ombudsman services to all older Indians residing in long-term care facilities off reservation would pose an undue financial and administrative burden. Third, we are uncertain how the tribal organization would have the legal authority to require access to patients' records, if the facility is not on reservation lands. However, we encourage tribal organizations to enter into cooperative agreements with appropriate agencies to assure that all older Indians residing in long-term care facilities in the State have the benefit of ombudsman services. For a full discussion of policy issues regarding the ombudsman program, including a

definition of a long term care facility, see the Preamble of the proposed part 1321 published in the Federal Register on July 31, 1979, beginning on page 45041.

### 3. *Optional Services (Section 1328.11(b))*

Isolation, traditions, language, life style, and other cultural and social factors, have resulted in a unique set of needs, as well as strengths, in the Indian communities. These regulations propose to fund under Title VI all services explicitly listed in Section 321(a) of the Act. In addition, we have included the option of providing other services that should meet the particular needs of older Indians. Section 321(a)(12) provides that the social services that may be included in a State's Title III plan include "any other services; if such services meet standards prescribed by the Commissioner and are necessary for the general welfare of older individuals." Since the purpose of Title VI is to promote delivery of social services comparable to those provided under Title III, and Section 603 authorizes the Commissioner to make grants under Title VI for those social services, we think we can use the authority contained in Title III to identify and fund under Title VI any social services that meet the special needs of older Indians.

These proposed regulations place considerable emphasis on the four required services. This does not mean that only these services will be funded, or that a grant award should be distributed equally among these four services. AoA has limited knowledge of which social services are needed by older Indians. We do know from our consultation with NIOA and project staff on reservations that the services provided under Title III do not adequately serve the Indian community. These proposed regulations include, by way of example, such additional services as water service, fuel, road clearing, and temporary shelters.

We wish to make clear that we will approve the use of Title VI funds for additional optional social services not specified in these regulations if the tribal organization demonstrates in its application that those services are necessary for the welfare of the Indians it serves.

### 4. *Indian Multipurpose Senior Centers*

*General.* Under Title VI, the tribal organization has the option to use funds to renovate, construct, purchase, lease, or staff a multipurpose senior center. If the tribal organization chooses to use funds for any of these purposes, it must comply with the requirements of

proposed §§ 1328.23 through 1328.29. These requirements are based on Section 604(a)(9) of the Act which requires compliance under Title VI with Sections 307(a)(14)(A)(i) and (iii), 307(a)(14)(B) and 307(a)(14)(C) of the Act. These sections of the Act set forth the requirements governing the use of an acquired or constructed center; the requirement that, in the case of purchase or construction, no other facility in the community has been found that is suitable for leasing; and the requirement for compliance with the minimum standards of construction, particularly the Architectural Barriers Act of 1968. We have decided not to propose for Title VI any of the minimum service delivery requirements proposed for centers funded under Title III. See § 1321.121(c)(2) of the proposed Title III regulations. We think experience will show how these centers can best serve older Indians.

• *Surplus Education Facilities (Section 1328.29).* A number of issues arise in the implementation of Section 606 of the Act, which authorizes the Secretary of the Interior to "make available" facilities designated as "surplus educational facilities" to eligible Indian organizations, or to non-profit organizations with tribal approval. We have discussed these issues with staff of the Bureau of Indian Affairs (BIA) in the Department of the Interior.

The first issue is who can apply for funds to renovate surplus facilities? Section 606(a) allows either a tribal organization or a non-profit organization to apply for a surplus educational facility from the Secretary of the Interior. Section 606(b), specifies how applications to the Secretary of the Interior are to be submitted and refers only to "each eligible tribal organization" as the applicant, omitting reference to a non-profit organization. In section 603 of the Act, the Commissioner is permitted to award funds under Title VI only to "eligible tribal organizations." We propose to limit funding under Title VI to renovate surplus educational facilities only to those tribal organizations which have established their eligibility for a Title VI grant.

The second issue is how to apply for surplus educational facilities? Since Section 604(a) of the Act authorizes the Secretary of the Interior to make the surplus educational facilities available to tribal organizations, the procedures to be followed if a tribal organization decides to apply for a surplus educational facility are the responsibility of BIA. According to BIA, there are very few surplus educational facilities available that could be used as

Indian multipurpose senior centers. However, BIA did point out that there are some facilities that are underutilized and that a tribal organization may be able to obtain use of these facilities through BIA.

The tribal organization can apply for funds for assistance to alter or renovate these facilities as part of its application for assistance under a Title VI grant.

##### *5. Definition of Tribe and Tribal Organization (Section 1328.3)*

A major issue is to which Indian tribes and tribal organizations does Title VI apply? Section 602(b) of the Act provides that for the purpose of Title VI, the terms "Indian tribe" and "tribal organization" are defined as in the Indian Self-Determination and Education Assistance Act. (25 U.S.C. 450b) These definitions are given in § 1328.3 of the proposed regulations. The Senate report indicates that Title VI would authorize direct funding of "social services and nutrition services for Federally recognized tribal organizations."<sup>1</sup> Accordingly, we have concluded that Title VI applies only to Federally recognized Indian tribes. The Bureau of Indian Affairs, which is partially responsible for administering the Indian Self-Determination and Education Assistance Act, maintains a list of tribes which are recognized as eligible to receive services from the Federal government because of their status as Indians. Our definition of "Indian tribe" would include only those tribes which are on this list. A copy of this list is available from BIA.

Under these proposed regulations, Indians who are not members of a Federally recognized tribe, but who live in a service area funded under this part could not receive services under this part.

##### *6. Eligibility Criteria*

Section 1328.7 of the proposed regulations sets forth the basis requirements that a tribal organization must meet to be eligible to apply for a Title VI grant. First, the tribal organization must represent at least 75 or more older Indians. Second, the tribal organization must demonstrate its ability to deliver social and nutritional services. Third, the tribal organization must assure that older Indians it represents for purpose of Title VI do not receive services under Title III for the duration of the Title VI grant. These requirements are based on Section 602 of the Act.

Section 602(a)(1) of the Act requires that the tribal organization represent at least 75 individuals aged 60 or older. Since Section 603 authorizes Title VI grants to pay for services for Indians who are aged 60 or older, we have interpreted the word "individual" to mean older Indian. Since Section 102(5) of the Act defines Indian as a person who is a member of an Indian tribe, we propose to define "older Indian" as a member of an Indian tribe who is 60 years of age or older (§ 1328.3).

Section 604(b) of the Act authorizes a tribal organization to develop its own tribal statistics in order to show that the tribal organization represents at least 75 older Indians. These statistics must be certified by the Bureau of Indian Affairs district supervisor, as specified in § 1328.31(b)(2). The BIA has agreed to this procedure. If the tribal organization does not use its own statistics, it must use the official Census Bureau statistics as is done for Title III. We invite comment on these procedures.

Under these proposed regulations, a tribal organization must represent at least 75 older Indians, but in our view, it is not necessary that they all be members of the same tribe. We are proposing to permit two or more Federally recognized tribes, each of which may have fewer than 75 older members, to join together in a consortium arrangement to form a tribal organization representing 75 or more older Indians.

We are proposing in § 1328.7 to restrict any Indian tribe from authorizing more than one tribal organization to apply for a Title VI grant. We propose this limitation for two reasons: first, one of the responsibilities of a tribal organization is to coordinate efforts with other applicable programs in order to mobilize resources. We think a tribe would be competing with itself in mobilizing the resources of other programs if a tribe authorized several tribal organizations and these received grants under Title VI. Second, we believe that without this limitation large tribes would have an unfair advantage over the small tribes. A large tribe could, theoretically, set up many tribal organizations representing 75 or more older Indians and submit numerous applications.

Another issue that arises is whether a tribe may authorize a tribal organization to represent a distinct part of the tribe for purposes of Title VI, while the remainder of the tribe could remain eligible to receive services under Title III.

We are proposing to allow this dual representation for the following reasons. Under Title VI, it is the tribal

organization, and not the tribe, that applies for and administers the grant, and the tribal organization that is prohibited from receiving funds under Title III for the duration of the grant under Title VI. (Section 604(f)). We think that it is clear from the Act that Congress intended to impose some administrative control by limiting a tribal organization to receiving funds under only one Title of the Act for the duration of the Title VI grant, but that Congress did not intend to require an entire tribe to choose between Titles III and VI. Title VI offers the advantage of furthering the concept of tribal sovereignty and developing tribal administrative capacity while Title III may offer a more adequate funding level. The proposed regulations would permit a tribe to authorize one tribal organization to represent a specified group of older Indians for purposes of Title VI. Older Indians belonging to that tribe and who are not represented by the tribal organization would remain eligible for services under Title III.

The second eligibility requirement, that tribal organizations must demonstrate the ability to deliver social and nutrition services, poses some difficult problems. We have not set forth specific criteria by which a tribal organization can meet this requirement in these proposed rules. We do not have much information about the experience of tribal organizations in delivering these services. We are not certain what kinds of documentation should be required. Examples of criteria might be that the tribal organization has been involved in social service programs in the past, or has staff that has administered a social service program. A second example might be that the tribal organization is being trained to manage a social and nutrition program and commits itself to ongoing consultation for a period of the grant with an organization familiar with Indian culture and social and nutrition programs. We are interested in any other examples that could be used to demonstrate an organization's capacity to deliver social and nutrition services. We, therefore, particularly invite comment on what these criteria should be and what sort of documentation should be required.

We are aware that there may be tribal organizations that would be eligible to receive a grant under Title VI to deliver social and nutrition services if they received initial technical assistance. We do not want to exclude any organization that is in this category. For this reason, we are proposing, in § 1328.33(c), to provide if practicable, technical

<sup>1</sup> 95th Cong. 2nd Sess. Senate Rept. No. 95-855, p.17.

assistance to those tribal organizations that meet the other two eligibility criteria. We think that by providing initial technical assistance, more tribal organizations will become eligible to apply for grants.

Section 602(a)(3) requires that individuals to be served by the tribal organization will not receive services under Title III for the year for which an application is made under Title VI. Section 1328.7(a)(3) implements this statutory requirement. Although the Act uses the phrase "to be served," we are proposing for two reasons to equate represent with serve—that is, we are proposing to require a tribal organization to specify in its application the total number of older Indians it will serve under its grant. These Indians, whether or not they actually receive services under Title VI, may not receive services under Title III during the period of the Title VI award. We believe that this requirement is necessary in order to coordinate planning between Titles III and VI, and to enable the Commissioner to reduce a State's Title III allotment at the beginning of a fiscal year in proportion to the number of the Indians in the State who will be served in that year under Title VI. See § 1328.37. Section 604(d) of the Act requires this reduction when the Commissioner approves an application under Title VI.

To meet this third criterion, a tribal organization need only provide an assurance in its preapplication that it will develop a mechanism that will meet this requirement. If the tribal organization submits an application, it must describe what procedures will be used to implement this requirement, and must specify the total number of Indians to be served. These procedures must include notifying the area agency(ies) on aging in the planning and service area(s) designated under Title III of the Act in which the tribal organization plans to provide services of its intent to apply and when it receives a grant under this part.

#### 7. Options for providing social and nutrition services to older Indians

The Act provides two ways of paying for costs of providing services to older Indians: Either through the Title III network of State and area agencies on aging or through a grant under Title VI. We want to emphasize that while the Act provides two funding mechanisms, it is the tribal organization's right to decide whether to apply for assistance under Title VI. The Senate Report states: " \* \* a tribal organization would have the option of remaining under the Title III network of State and area agencies

on aging or applying for funding directly from the Commissioner."<sup>2</sup>

We want to emphasize that while the Act provides two funding mechanisms, it does not give the State an option in its responsibility toward older Indians. A State cannot assume that a tribal organization will or must apply for services under Title VI. We want to make clear that State and area agencies are under a continuing obligation to ensure that older Indians are equitably served under the Act.

#### 8. Designating a Service Area

The proposed regulations require:

- That a tribal organization specify the geographic boundaries of the service area in which it plans to provide social and nutrition services to the older Indians residing there; and
- That the area be within the boundaries of a reservation, except that the service area may include lands designated by BIA as near reservation lands.

We are proposing this requirement because:

- We want to concentrate the available resources in the areas in which we believe most older Indians reside.
- AoA believes that older Indians living on a reservation have the least access to the kinds of services that will be provided under Title VI, and are presently receiving the least amount of services under Title III.
- State and area planning under Title III is based on geographic area. We believe that requiring service delivery by area under Title VI will facilitate planning and coordination of services between the two Titles.

Under these proposed regulations, a tribal organization would be authorized to provide services under its Title VI grant only in the service area designated in its approved application. Section 602(a)(3) of the Act provides that Indians to be served by the tribal organization will not receive services under Title III during the period of the Title VI grant. We are proposing to implement this provision by requiring an assurance from a tribal organization that Indians it represents under Title VI will not receive services under Title III. In our view, the clear intent of section 602(a)(3) is to assure that older Indians are not served under both programs—not to prevent them from being served under either program because they chose or were required to leave the Title VI service area during the period of the Title VI grant. Therefore, if an older Indian represented by a tribal

organization under a Title VI grant moves from the service area, so that he or she could not be served under Title VI, he or she may receive services under Title III. For example, if an older Indian who is represented by a tribal organization under its Title VI grant is institutionalized in a nursing home in some part of the State outside of the service area, he or she would be entitled to the protections afforded by the Title III ombudsman program.

#### 9. Needs Assessment

Section 604(a)(1) of the Act requires a tribal organization to evaluate the need for social and nutrition services. Section 1328.9(c) of the proposed regulations would implement this requirement. We propose that the tribal organization use this needs assessment as the basis for its decision to provide any of the optional services as well as determining the amount or scope of all services to be provided under Title VI.

#### 10. Application Requirements

a. *Preapplication and application procedures.* Under the Act, only an eligible tribal organization may receive a Title VI grant. Under these proposed regulations, the tribal organization would submit a preapplication as specified in § 1328.31 to find out if it is eligible to receive a Title VI grant. The Commissioner determines if a tribal organization is eligible. The tribal organization is notified in writing if it is eligible, and if so, the approximate amount of the grant for which it can apply. AoA will accept applications only from those tribal organizations that have submitted a preapplication and have been notified they are eligible. In the application, the tribal organization describes its proposed social and nutrition services program. Each application must meet the requirements specified in § 1328.35 as well as the regulations listed in § 1328.5 governing all discretionary grant programs.

b. *Disapprovals.* Proposed § 1328.39 specifies the procedures the Commissioner will follow for disapproval of an application from an eligible tribal organization. The proposed regulations specify that the Commissioner will send a written notice to the tribal organization of the disapproval at least five months before the beginning of the next Federal fiscal year. This schedule is proposed so a tribal organization whose application is disapproved has sufficient time to participate in the Title III planning process.

The disapproval notice will specify each reason for which the application was disapproved and inform the tribal

<sup>2</sup> Senate Rept; supra, p. 17.

organization of its right to appeal the disapproval. The proposed regulations implement Section 604(e) by requiring that, to the extent practicable the Commissioner will provide technical assistance to each eligible tribal organization whose application was disapproved.

c. *Hearings.* An eligible tribal organization may request a hearing if its application is disapproved. In developing the procedures to provide for an appeal and hearing, we studied several alternative methods. Section 1328.41 is adapted primarily from rules issued by the Indian Health Service (45 CFR 36.214) and the Bureau of Indian Affairs (25 CFR 20.30). We particularly solicit comment on the appropriateness of these procedures.

If the tribal organization requests a hearing, it must provide information addressing each objection. After receiving the request, the Commissioner notifies the tribal organization in writing within 30 days of the time and place of the hearing. Section 1328.41(c) describes the rights of a tribal organization during the hearing:

- A hearing before the Commissioner or his delegate;
- The right to cross examine witnesses; and
- The right to have access to the staff responsible for reviewing the application, either as a witness or through a deposition.

The regulations propose that 30 days after the hearing is held, the Commissioner sends a written notice to the tribal organization informing it of the final agency decision.

#### 11. \$5 million minimum appropriation level

Section 608 of the Act specifies that in any fiscal year for which less than \$5,000,000 is appropriated, a tribal organization is authorized to receive services under Title III. The Conference Report<sup>2</sup> makes clear that this provision means that Title VI becomes operational only if at least \$5 million is appropriated each fiscal year to pay for the costs of providing services under this Title. If Congress does not appropriate this minimum amount, older Indians can receive services only under Title III of the Act.

(Title VI of the Older Americans Act (42 U.S.C. 3057).)

Dated: September 25, 1979.

Robert Benedict,  
*Commissioner on Aging.*

Approved: September 25, 1979.

Arabella Martinez,  
*Assistant Secretary for Human Development Services.*

Approved: November 28, 1979.

Patricia Roberts Harris,  
*Secretary of Health, Education, and Welfare.*

45 CFR Chapter XIII, Subchapter C is amended to add a new Part 1328 to read as follows:

### PART 1328—GRANTS TO INDIAN TRIBAL ORGANIZATIONS FOR SOCIAL AND NUTRITIONAL SERVICES

#### Introduction

##### Sec.

- 1328.1 Basis and scope.
- 1328.3 Definitions.
- 1328.5 Applicability of other regulations.

#### Tribal Organization Requirements

- 1328.7 Tribal organization eligibility.
- 1328.9 Tribal organization responsibilities.

#### Services under this part

- 1328.11 Required and optional services.
- 1328.13 General services requirements.
- 1328.15 Nutrition services.
- 1328.17 Legal services.
- 1328.19 Information and referral services.
- 1328.21 Ombudsman services.

#### Indian Multipurpose Senior Centers

- 1328.23 What senior center activities may be funded.
- 1328.24 Definitions.
- 1328.25 Use requirements.
- 1328.27 Compliance with construction and safety standards.
- 1328.29 Surplus educational facilities from the Bureau of Indian Affairs.

#### Application Requirements

- 1328.31 Preapplication requirements.
- 1328.33 Determination of eligibility.
- 1328.35 Application requirements.
- 1328.37 Application approval.
- 1328.39 Application disapproval.
- 1328.41 Hearings procedures.

Authority: Title VI of the Older American Act (42 U.S.C. 3057).

#### Introduction

##### § 1328.1 Basis and scope.

This part implements Title VI of the Older Americans Act, as amended, by establishing the requirements that an Indian tribal organization must meet in order to receive a grant to provide social and nutrition services to older Indians, and to acquire, alter, renovate or construct a facility for use as an Indian multipurpose senior center. This part also prescribes application and hearing procedures for these grants.

##### § 1328.3 Definitions.

"Act" means the Older Americans Act of 1965, as amended, (42 U.S.C. 3001 et. seq.).

"Commissioner" means the Commissioner on Aging of the Administration on Aging.

"Indian tribe" means any Indian tribe, band, nation, or organized group or community, including any Alaska Native Village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (Pub. L. 93-638).

"Legal Services" means legal advice and representation to those with economic or social needs, provided by a lawyer, or non-lawyer where permitted by law. Legal services may also include counseling and other appropriate assistance by a paralegal or law student under the supervision of a lawyer.

"Non-profit" as applied to any agency, institution or organization means an agency, institution, or organization which is owned and operated by one or more corporations or associations with no part of the net earnings benefiting any private share holder or individual.

"Older Indian" means a member of an Indian tribe who is 60 years of age or older.

"Service area" is that geographic area in which the tribal organization provides social and nutrition services to the older Indians residing there. It must be either a part of a reservation, an entire reservation, several reservations, or areas designated by the Bureau of Indian Affairs as near reservation lands. (25 CFR 20.1(r))

"Service provider" means any entity that receives a subgrant or contract from a tribal organization to provide services under this part.

"Reservation" means any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaskan Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments. (25 CFR 20.1 (v)).

"Tribal organization" means the recognized governing body of any Indian tribe; or any legally established organization of Indians which is controlled, sanctioned or chartered by such governing body on which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities. In any case where a contract is let or grant

<sup>2</sup>95th Cong. 2nd Sess. H. Rept. No. 95-1618, p. 82.



made to an organization to perform services benefiting more than one Indian tribe, the approval of each Indian tribe shall be prerequisite to the letting or making of the contract or grant. (Pub. L. 93-638)

#### § 1328.5 Applicability of other regulations.

The following regulations in Title 45 of the *Code of Federal Regulations* apply to all activities under this part:

- (a) Part 74—Administration of Grants;
- (b) Part 80—Nondiscrimination under Programs Receiving Federal Assistance, through the Department of Health, Education and Welfare: Effectuation of Title VI of the Civil Rights Act of 1964;
- (c) Part 81—Practice and Procedure for Hearings under Part 80 of this title;
- (d) Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Benefits from Federal Financial Participation;
- (e) Part 90—Nondiscrimination on the Basis of Age; and
- (f) Part 16—Department Grants Appeal Process.

#### Tribal Organization Requirements

##### § 1328.7 Tribal organization eligibility.

(a) A tribal organization is eligible to apply for a grant under this part only if it—(1) Represents 75 or more older Indians who will receive services under the Act only under this part; (2) Demonstrates its ability to deliver social and nutrition services; and (3) Assures that older Indians it represents under its grant do not receive services under Title III for the duration of the grant.

(b) A tribal organization may represent older Indians from more than one tribe.

(c) An Indian tribe may authorize only one tribal organization to apply for a grant under this part.

(d) A tribal organization may not receive funds both under this part and part 1321.

##### § 1328.9 Tribal organization responsibilities.

A tribal organization must—

- (a) Establish the geographic boundaries of its service area;
- (b) Develop and submit a preapplication as specified in § 1328.31;
- (c) Assess the kinds and levels of services needed by older Indians in the service area;
- (d) Develop and submit an application that meets the requirements specified in § 1328.35;
- (e) Develop outreach efforts to identify older Indians and inform them of the availability of services under this part;

(f) Coordinate with other community agencies in the service area in planning and providing services to older Indians;

(g) Provide for an annual evaluation, by a non-profit private organization selected by the tribal organization, of the activities and projects funded under this part. The evaluation must be conducted by an organization that is—

- (1) Independent of the tribal organization and the tribes represented by the tribal organization; and (2) Has expertise in the assessment of social services programs;

(h) Give preference, wherever feasible, to employing older Indians for full and part-time staff positions to carry out activities under this part;

(i) Ensure that all services under this part are provided without consideration of an older Indian's income and resources, or ability to pay for services;

(j) Have procedures to ensure confidentiality so that no information obtained under this part about an older Indian receiving services under this part is disclosed in a form that identifies the person unless the older Indian gives written consent;

(k) Subject to the confidentiality requirements in paragraph (j) of this section, make available at reasonable times and places, to all interested parties, all information and documents developed or received by the tribal organization in carrying out its responsibilities under this part;

(l) Represents the interests of older Indians in the service area;

(m) Provide services under this part only in the service area specified in its approved application; and

(n) Provide additional information to the Commissioner upon request.

#### Services under This Part

##### § 1328.11 Required and optional services.

(a) *Services that must be provided under a grant under this part.* A tribal organization that receives a grant under this part must provide the following services under the grant—(1) Nutrition services, as specified in § 1328.15; (2) Legal services, as specified in § 1328.17; (3) Information and referral services, as specified in § 1328.19; and (4) Ombudsman services, as specified in § 1328.21.

(b) *Other services that may be provided under a grant under this part.* The tribal organization may provide any additional services necessary for the welfare of older Indians that are designed to meet the unique social and nutrition needs of older Indians in the service area. These services may include water services; road clearing; fuel; temporary shelter; multipurpose

senior centers; or any other services authorized by Title III.

(c) The tribal organization must use the needs assessment required under § 1328.9(c) to decide the levels of services it will provide under paragraph (a) of this section and which services it will provide under paragraph (b) of this section.

##### § 1328.13 General services requirements.

(a) The tribal organization may provide services directly or subgrant or contract with a service provider to provide the services.

(b) If the tribal organization chooses to subgrant or contract with a service provider, it must—

(i) Give preference to the greatest extent feasible to Indian organizations and to Indian-owned economic enterprises, as defined in Section 3 of the Indian Financing Act of 1974; and

(ii) Ensure that the service provider—(A) Complies with all applicable service requirements specified in § 1328.15 through § 1328.27; (B) Provides the services effectively and at a reasonable cost; (C) Meets any applicable State and local licensure requirements to provide these services; and (D) Gives preference to Indians to the greatest extent feasible, in training and employment under the subgrant or contract.

##### § 1328.15 Nutrition services.

(a) *General rule.* The tribal organization must provide for nutrition services for older Indians, either at home or in a congregate setting, or both.

(b) *Food requirements for all nutrition services.* The tribal organization must ensure that—

(1) Appropriate procedures to preserve nutritional value and food safety are followed in purchasing food, and preparing and delivering meals;

(2) Special meals are provided to meet the particular health, religious, cultural and dietary needs of individual older Indians;

(3) Appropriate food containers and utensils are available and used for disabled older Indians; and

(4) Each meal served contains at least one-third of the current Recommended Dietary Allowances established by the Food and Nutrition Board of the National Academy of Sciences—National Research Council.

(c) *Type and frequency of meals served.* The tribal organization must ensure that a hot, or otherwise appropriate meal is provided at least once a day, five days a week. The tribal organization must use the needs assessment required under § 1328.9(c) to decide whether to provide for the meals



at home or in a congregate setting or both.

(d) *Food stamp program.* The tribal organization must—(1) Provide assistance to those older Indians receiving services under this part to help them take advantage of benefits available under the food stamp program; and (2) Coordinate its activities with agencies responsible for administering the food stamp program to facilitate participation of eligible older Indians in the food stamp program.

#### § 1328.17 Legal services.

(a) The tribal organization must provide legal services to older Indians. If legal services are already being provided to older Indians in the service area, funds under this part may be used only to supplement those services.

(b) *Conditions legal service providers must meet.* (1) A legal services provider must be either—

(i) An organization that receives funds under the Legal Services Corporation Act; or

(ii) An organization that has a program or the capacity to develop a legal service program.

(2) Each legal services provider must—

(i) Make efforts to involve the private bar in legal services provided under this part, including groups within the private bar that furnish legal services to older persons on a pro bono and reduced fee basis;

(ii) Ensure that no attorney of the provider engages in any outside practice of law if the director of the provider has determined that such practice is inconsistent with the attorney's fulltime responsibilities;

(iii) Ensure that while employed under this part, no employee and no staff attorney of the provider shall, at any time—(A) use official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office, whether partisan or nonpartisan; (B) Directly or indirectly coerce, attempt to coerce, command or advise an employee of any provider to pay, lend, or contribute anything of value to a political party, or committee, organization, agency or person for political purposes; or (C) Be a candidate for partisan elective public office.

(iv) Adopt policies that ensure that, if feasible, legal assistance will be provided in the language spoken by clients, and

(v) Adopt a procedure to give older Indians the opportunity to review the Older Americans Act, regulations and guidelines applicable to Title VI; the provider's written policies, procedures

and guidelines; and the names and addresses of the members of its governing body. The procedure adopted must be approved by the tribal organization.

(3) Each legal services provider that is not a Legal Services Corporation grantee must agree to coordinate its services with Legal Services Corporation grantees.

#### § 1328.19 Information and referral services.

(a) The tribal organization must provide for information and referral services so that older Indians have reasonably convenient access to those services.

(b) If a significant number of older Indians in the service area do not use English as their principal language, the tribal organization must provide for information and referral services in the language those Indians speak.

(c) A tribal organization must establish or have a list of all services that are available to older Indians in the service area;

(d) A tribal organization must provide assistance to older Indians to help them take advantage of the available services; and

(e) The tribal organization must maintain a list of services needed or requested by older Indians.

#### § 1328.21 Ombudsman services

(a) *General rule.* If there is a long-term care facility<sup>1</sup> in the service area, on reservation lands, a tribal organization must provide for an ombudsman program. The ombudsman program must be operated by a public agency or a private non-profit organization that is not—

(1) Responsible for licensing or certifying long-term care facilities;

(2) An association, or part of an association of long-term care facilities, or other residential care facilities for older persons; or

(3) The owner or operator of the long-term care facility(ies) to be served by the ombudsman program.

(b) *Ombudsman.* A designated ombudsman must have responsibility for the program.

(c) *Functions of an ombudsman program.* The ombudsman program must—

(1) Investigate and resolve complaints made by, or for, older Indians residing in the long-term care facilities;

(2) Monitor the implementation of laws relating to long-term care facilities; and

(3) Provide information to the tribal organization, and to the Commissioner on request, about problems of older Indians residing in long-term care facilities in the service area.

(d) *Access.* The tribal organization must establish procedures that ensure the ombudsman program has appropriate access to the long-term care facility(ies) on reservation lands in the service area, and to the residents' records. These procedures must ensure that the identity of the complainant or resident is not disclosed except with his or her written consent, or on court order.

(e) *Confidentiality and disclosure.* The ombudsman must establish procedures to safeguard the confidentiality and disclosure of any files the program maintains so these are disclosed only at the discretion of the ombudsman. These procedures must ensure that the identity of the complainant or resident is not disclosed without the written consent of either the complainant or resident, or legal representative of either, or a court order.

#### Indian Multipurpose Senior Centers

#### § 1328.23 What senior center activities may be funded.

The tribal organization may use funds awarded under this part for the following activities:

(a) Altering; leasing, for at least 10 years; or renovating a facility; including a mobile facility, for use as a center;

(b) Constructing or purchasing a facility for use as a center if the tribal organization demonstrates that there are no suitable facilities to lease in the service area; and

(c) Staffing the center.

#### § 1328.24 Definitions.

For purposes of sections 1328.23 through 1328.29—

(a) "Altering" or "renovating" means making modifications to an existing facility which are necessary for its effective use as a center. These may include restoration, repair, or expansion; and

(b) "Construction" means building a new center, including the costs of land acquisition, and architectural and engineering fees.

#### § 1328.25 Use requirements.

(a) The tribal organization must have sufficient funds to effectively use as a center a facility that it acquires or constructs with funds under this part.

(b) The tribal organization must ensure that a facility acquired or constructed for use as a center will be

<sup>1</sup> Proposed definitions for long term care facility are in § 1321.43 of the proposed regulations implementing Title III of the Act, published in the Federal Register on July 31, 1979 (44 FR 45032).

used for this purpose for at least 10 years from the date of acquisition, or for at least 20 years after completion of construction.

(c) The Commission may waive the requirements specified in paragraph (a) of this section in unusual circumstances.

(d) The United States government is entitled to recapture a portion of Federal funds from the owner of a facility if within 10 years after acquisition or 20 years after completion of construction—(1) The owner of the facility ceases to be a public or non-profit agency; or (2) The facility is no longer used for senior center activities.

#### § 1328.27 Compliance with construction and safety standards.

If its application contains provisions for any of the activities specified in § 1328.23 the tribal organization must—

(a) Ensure that plans and specifications for the facility are in accordance with regulations relating to minimum standards of construction, particularly with the requirements of the Architectural Barriers Act of 1968; and

(b) Comply with the applicable provisions of the Life Safety Code of the National Fire Protection Association (1976 ed.), applicable building occupancy classification, or local codes, whichever is most stringent. The provisions of this paragraph may be waived if the Commissioner makes a finding that a waiver will not adversely affect the health and safety of older Indians. These regulations incorporate by reference the "Life Safety Code." (NFPA No. 101, 1976 edition). This code is available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA., 02210 at a cost of \$5 per copy. A copy of the "Life Safety Code" is available for inspection at the Administration on Aging, Public Inquiries, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201, and at the Office of the Federal Register Library, Room 8401, 110 L Street, NW., Washington, D.C. 20408.

#### § 1328.29 Surplus educational facilities from the Bureau of Indian Affairs

If an eligible tribal organization applies for a grant under this part to renovate a surplus educational facility the Bureau of Indian Affairs (BIA) made available for use as a center, the tribal organization—

(a) Must include in its application a letter from the Secretary of the Interior, identifying the specific facility and date the tribal organization assumes title;

(b) Must include in its application all documentation of the necessary renovations or alternations, and cost

estimates that the Secretary of the Interior may provide;

(c) May renovate the center to become an extended care facility or a community center providing nutrition, social and child care services. If a center will be used for services other than services to older Indians, the tribal organization may use funds under this part only—(1) To alter that portion of the center used by older Indians; or (2) For a proportionate share of the alternation costs based on the extent of use of the facility by older Indians.

#### Application Requirements

##### § 1328.31 Preapplication requirements.

(a) *General rule.* In order to establish its eligibility to receive a grant under this part, the tribal organization must submit a preapplication in accordance with the Commissioner's instructions. The tribal organization must submit a preapplication for each Federal fiscal year in which it intends to apply for a grant.

(b) *Content of the preapplication.* The tribal organization must include in the preapplication information to demonstrate that it meets the eligibility requirements specified in § 1328.7. The preapplication must include—

(1) A description of the tribal organization, including—

(i) The name of the tribal organization;

(ii) The legal and organizational relationship of the tribal organization to the Indians in the area to be served;

(iii) If elected, a description of the election process, voting criteria, and extent of voter participation;

(iv) Whether the tribal organization is controlled, sanctioned or chartered by the governing body of Indians to be served, and, if so, evidence of such fact;

(v) Any limitations on authorities granted the tribal organization; and

(vi) The tribal resolution(s) authorizing it to apply for a grant under this part.

(2) Documentation that the tribal organization represents 75 or more older Indians. This documentation must be certified by the district BIA superintendent, unless the tribal organization uses statistics developed by the Bureau of Census;

(3) Documentation of its ability to deliver social and nutrition services to older Indians. This documentation must include evidence that the tribal organization has effectively delivered social or nutrition services, or has the current organizational capacity to deliver those services; and

(4) An assurance that the tribal organization has a mechanism to assure that older Indians receiving services

under its grant under this part will not receive services under Title III for the duration of the grant.

##### § 1328.33 Determination of eligibility.

(a) The Commissioner evaluates the information submitted in the preapplication and decides if the tribal organization meets the eligibility requirements specified in § 1328.7.

(b) If the Commissioner decides that the tribal organization is eligible, he or she notifies the tribal organization in writing that it is eligible to submit an application for a grant. The Commissioner evaluates the information submitted in the preapplication and decides if the tribal organization meets the eligibility requirements specified in § 1328.7.

(c) If the Commissioner decides that the tribal organization is not eligible, he or she notifies the tribal organization in writing of the reasons why it is not eligible. If the reason for denial of eligibility is the tribal organization's failure to meet the requirements of § 1328.7(a)(2), the tribal organization may request technical assistance from the Commissioner. The Commissioner provides technical assistance, if practicable.

##### § 1328.35 Application requirements.

(a) *General rule.* In order to receive a grant under this part, the eligible tribal organization must submit a application in accordance with the Commissioner's instructions. The eligible tribal organization must submit an application for each fiscal year.

(b) *Content of the application.* The application must include—

(1) A description of—(i) The geographic boundaries of the service area; (ii) The total number of older Indians to be served under the grant; and (iii) The needs assessment conducted under § 1328.9(c).

(2) A description of the program and program objectives. Each objective for the proposed program must be consistent with the purpose of the Act. The program description must specify—(i) The services the tribal organization proposes to deliver; (ii) Any obstacles to providing the services that have been identified; and (iii) The plans to overcome the obstacles identified.

(3) A copy of an evaluation for the previous Federal fiscal year required by § 1328.9 except for the initial year of operation.

(c) *Services delivery requirements.* The application must provide that the requirements are met for—(1) Nutrition services, as specified in § 1328.15; (2) Legal services, as specified in § 1328.17; (3) Information and referral services, as

specified in § 1328.19; (4) A long-term care ombudsman program, as specified in § 1328.21; (5) Multipurpose senior centers activities, as specified in § 1328.23 through § 1328.29; and (6) Service provider requirements as specified in § 1328.13.

(d) *Planning and management requirements.* (1) The application must provide that the tribal organization responsibility requirements are met as specified in § 1328.9.

(2) The application must specify the methods the tribal organization will use to ensure that the older Indians it serves under its grant do not receive services under Title III for the period of the grant.

(3) The application must provide that the tribal organization notifies the area agency(ies) in the planning and service area(s) of the intent to apply and of its receipt of a grant under this part.

#### § 1328.37 Application approval.

The Commissioner approves each application from an eligible tribal organization that meets all Federal requirements, including the requirements of this part. The Commissioner notifies the tribal organization in writing of the approval, and includes in the notice the amount, duration, and effective date of the grant award.

#### § 1328.39 Application disapproval.

(a) If the Commissioner disapproves an application from an eligible tribal organization, he or she notifies the eligible tribal organization of the disapproval in writing within 60 days of the disapproval, and at least five months before the beginning of the next Federal fiscal year to which the application applies. In each disapproval notice the Commissioner—(1) Specifies each objection to the application; and (2) Notifies the tribal organization of its rights to appeal the disapproval, and of its right to request technical assistance to overcome the objection(s) to approving the application.

(b) To the extent practicable, the Commissioner provides technical assistance to the tribal organization to assist it to overcome the objection(s) to approving the application.

#### § 1328.41 Hearings procedures.

(a) If an application from an eligible tribal organization is disapproved, the tribal organization may file a written appeal with the Commissioner and request a hearing within 45 days of the day of the disapproval notice. If it appeals the disapproval, the tribal organization must include a full written response to each objection specified in the notice of disapproval.

(b) Within 30 days of receiving the appeal, the Commissioner sets a date for the hearing. He or she notifies the tribal organization in writing of the date, time, and place for the hearing;

(c) The hearing procedures include the right of the tribal organization to—

(1) A hearing before the Commissioner or his or her delegated representative;

(2) Be heard in person or to be represented by counsel, or an authorized representative, at no expense to the Administration on Aging;

(3) Present oral and written evidence at the hearing, and written evidence prior to the hearing;

(4) Have the staff directly responsible for reviewing the application either present at the hearing, or have a disposition from the staff, whichever the Commissioner decides; and

(5) Cross-examine any witnesses present at the hearing.

(d) The Commissioner issues a written decision within 30 days after the hearing, giving the reasons and evidence upon which it was based. The decision is the final agency decision.

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Wednesday  
December 5, 1979

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**Part III**

**Department of  
Commerce**

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Office of Federal Statistical Policy and  
Standards

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**Office of  
Management and  
Budget**

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Population Projections; Preparation and  
Use in Federal Fund Allocations

**DEPARTMENT OF COMMERCE****Office of Federal Statistical Policy and Standards****Population Projections for Use in Federal Fund Allocation**

**AGENCY:** Office of Federal Statistical Policy and Standards, Department of Commerce.

**ACTION:** Notice of intention to develop an Office of Statistical Policy and Standards Directive; Population Projections for Use in Federal Fund Allocations.

**SUMMARY:** The Federal Government is undertaking an inter-Departmental effort to standardize the population projections used in decisions regarding Federal fund allocation under various Federal assistance programs. As part of this effort, the Department of Commerce is publishing for comment a number of proposed procedures along with background information explaining two series of recommendations which guided the development of this Federal policy. The proposed procedures would: 1) establish a methodology for producing a single set of baseline population projections for the States, and 2) establish requirements and procedures for the use of population projections by all Federal agencies distributing funds to State and/or sub-State programs or projects on the basis of projected population.

This notice should be reviewed in conjunction with a notice by the Office of Management and Budget (OMB) on the subject of population projections, published concurrently in this volume and number of the Federal Register.

**DATE:** Written comments are due by March 5, 1980.

**ADDRESS:** Submit written comments to: Director, Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C. 20230.

Public comments received in response to this notice may be inspected and copied (for appropriate charges) at this Office during normal business hours.

If your written comments concern issues raised either in this notice alone or both in this and the Office of Management and Budget notice, comments should be sent to this address. The Office of Federal Statistical Policy and Standards (OFSPS) is serving as the clearinghouse for all general comments received on these two notices. (The more detailed methodological statements from the Bureau of Economic Analysis and the Bureau of the Census, referenced in

Section B, are also available from OFSPS.)

If your written comments concern the contents of the Office of Management and Budget notice alone, comments should be sent to: Director, Intergovernmental Affairs Division, Room 5234, Office of Management and Budget, Washington, D.C., 20503.

**FOR FURTHER INFORMATION, CONTACT:** Jeanne E. Griffith, Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C., 20230; Telephone (202) 673-7953. Courtenay M. Slater, *Chief Economist for the Department of Commerce.*

**SUPPLEMENTARY INFORMATION:****A. Background on Development of SPCC Recommendations on Population Projections in Federal Funding Programs**

In the fall of 1977, as part of the reorganization of the Executive Office of the President, by Executive Order No. 12013, the President's statistical oversight authority was redelegated by the President from the Office of Management and Budget (OMB) to the Secretary of Commerce. This Order redelegated the authority granted to the President by Section 103 of the Budget and Accounting Procedures Act of 1950. The Department of Commerce established the Office of Federal Statistical Policy and Standards (OFSPS) to carry out this mandate.

The Budget and Accounting Procedures Act of 1950 authorizes and directs the President (and now the Secretary of Commerce, acting on his behalf):

... to develop programs and to issue regulations and orders for the improved gathering, compiling, analyzing, publishing, and disseminating of statistical information for any purpose by the various agencies in the executive branch of the Government. Such regulations and orders shall be adhered to by such agencies.

The general problem which this proposal addresses is the use of a number of different population projections by different Federal agencies for the same geographic areas. In some instances, the projections are contradictory with respect to the rate and geographic distribution of future growth. Funding decisions by necessity reflected these disparities.

The question of using a standard series of State population projections in Federal funds allocation had been raised in the course of an OMB Planning Requirements Study ordered by the President. The study reviewed Federal planning requirements and problems in data required for Federal grant-in-aid

applications. A specific example of the need for a standardized set of projections is the experience of the Environmental Protection Agency, which collected State-generated population projections for use in allocating sewage treatment construction grants.

These projections were generally too optimistic, as they summed to a population may tens of millions in excess of the projected United States population for 1990 even under the highest fertility model. Using the nonuniform set of projections, facilities would be built providing excess capacity in many areas and wasting billions of dollars.

Addressing this problem, the Environmental Protection Agency (EPA) under the requirements of the Clean Water Act established cost-effectiveness guidelines. Part of these guidelines restrict the amount of Federal funding for sewage treatment facilities and relate the funding restrictions to the total population projected to be served by the facility. EPA issued regulations requiring the use of State level population projections prepared by the Bureau of Economic Analysis as a principal basis for sizing facilities and for determining the amount of Federal funding.

Further, an interagency Cabinet level committee was established as part of the President's Urban Policy initiative to coordinate the activities of those Departments with major programs serving urban areas.

This Interagency Coordinating Council (IACC) recommended the use of a standardized set of population projections for funding purposes, as a means of simplifying and improving the planning process.

As a consequence of the Planning Requirements Study and the issuance of the EPA regulations, OMB and the IACC requested that the Statistical Policy Coordination Committee (SPCC), a Cabinet level inter-Departmental committee created by Executive Order No. 12013 to consider major issues of statistical policy, review the issue of population projections and develop recommendations for government-wide implementation. The SPCC reviewed the requests in May 1978 and established a Task Force on Population Projections to study the issue.

In the summer and fall of 1978, a number of issues were presented to the Task Force for consideration. These included:

- Is the present state of population projection methodology sophisticated enough to use in Federal funding formulae?



- What are the strengths and weaknesses of currently used methodologies?

- Can the strengths of the various methodologies be combined into one general model? If so, how?

- Can usable population projections for small areas, i.e., sub-State areas, be produced with one model?

- Should only one set of population projections be used by all program managers in all funding decisions?

The Task Force, in reaching its recommendations, consulted with technical representatives from the Federal Government, the States, and the academic community.

The recommendations of the Task Force were presented to the SPCC, which adopted the Task Force's positions with minor modifications. These recommendations are listed later in this notice.

The Department of Commerce accepted the responsibility for developing a methodology utilizing both economic and demographic assumptions. The Bureau of the Census and the Bureau of Economic Analysis (BEA) jointly have developed this methodology, an explanation of which follows in this notice.

The Office of Management and Budget assumed the primary responsibility for drafting a circular which would outline procedures for the distribution of the State level projections to sub-State areas. These intergovernmental coordination procedures are included in the OMB notice accompanying this Commerce notice.

- After the initial recommendations were adopted by the SPCC in December 1978, additional fundamental issues were raised. The SPCC requested that the Task Force on Population Projections be re-convened.

In June 1979, the Task Force met to consider the following issues:

- Is it generally appropriate to use population projections for fund allocation, in particular, in formula grant programs?

- What are appropriate methods of allocating State level projections to sub-State entities?

- What is the best means of endorsing the continued use of alternative projection series for purposes other than allocation of funds?

The Task Force considered the issues and again made recommendations to the SPCC. In June 1979, the SPCC adopted a set of recommendations supplementary to the December 1978 recommendations.

The recommendations of the SPCC from December 1978 and June 1979 on the development and use of the Census/

BEA population projections were as follows:

1. When future population has a clear effect on the level of funding in a particular Federally supported program, it is acceptable that population projections be used as part of a decision process concerning the amount and distribution of Federal funds. This process should incorporate other relevant factors as well. The use of population projections in *formula grant programs*<sup>1</sup> should be strongly discouraged.

2. The Department of Commerce should assume the responsibility for developing, in consultation with other Federal agencies, a single set of baseline State population projections which would incorporate economic and demographic variables for use, whenever projections are included as a factor in Federal funding allocations.<sup>2</sup> The model, to the maximum extent feasible, should take into consideration data reflecting the needs of various Federal agencies.

3. The Department of Commerce should produce the new methodology for review and comment within six months (from December, 1978).

4. The proposal developed by the Department of Commerce should provide for procedures which would permit State, Regional and local input. The proposal should also clearly define the methods of review of the data by various interested parties.

5. States should develop procedures and guidelines to generate sub-State baseline population distributions consistent with the State projections.

These procedures would be made available to appropriate sub-State entities for review and comment. After a comment period, they would be submitted to the Federal Government for approval. In support of this effort, the Federal Government should provide guidelines and technical assistance as appropriate.

6. A *baseline*<sup>3</sup> concept should be used by the States in initially distributing the

<sup>1</sup> The term *formula grant programs* is used here to denote a method of funding whereby Federal funding programs allocate their funds through the mechanical application of statistical data into a rigid formula.

<sup>2</sup> The term *funding allocation* covers either a national distribution of funds on a formula basis with future population served being a factor in the formula, or the commitment of funds for a specific project with future population served being a factor in the amount awarded.

<sup>3</sup> *Baseline* projections are projections based on a defined set of economic and/or demographic assumptions and which attempt to capture and reflect the essence of historical growth patterns. They do not attempt to take into account changes in intervention strategies by any level of government or by the private sector.

Department of Commerce projected State population to sub-State entities.

7. If within a State there has been adopted a State or local population distribution policy, either explicit or implicit, or if other factors are present which would alter future population distribution, the State may develop an alternate projection series for the sub-State areas.

8. The Federal Government must approve the rationale for any alternate series before the final projections are developed by the States and submitted for use in decisions regarding Federal funding programs and projects. The State total after adjustments should be identical to the State projection prepared by the Department of Commerce.

9. It is expected that the States will provide all aspects of the development of both baseline and alternate sub-State projections for review and comment by sub-State entities.

10. When using population projections as an element of funding decisions, all Federal agencies should use the same State and sub-State projection series within a given State. The baseline sub-State series should be used unless an alternate projection series has been approved for a State. In that case, the alternate series should be used.

11. The Federal Government should periodically update its set of baseline State projections to be used in funding decisions. After the State has then generated its subsequent sub-State baseline projections, it may file an updated alternate projection series.

12. The use of a single projection series for Federal funding decisions should not be construed as prohibiting or discouraging any unit of government from using other projections for planning purposes, for analysis of Federal or local program impacts, or for various other purposes.

These recommendations will be adhered to by OFSPS, OMB, BEA, and the Bureau of the Census in establishing the methodologies and procedures for developing the population projections and for developing standards for Federal agencies using them in funding decisions.

## B. Proposed Procedure for Development of a Baseline Set of State Population Projections

### Introduction

The Department of Commerce was assigned responsibility by the Statistical Policy Coordination Committee (SPCC) for carrying out the Committee's recommendation that a single set of baseline projections of State population

levels, which would incorporate both economic and demographic trends, be developed. The procedure proposed below was developed by the Department's Bureau of Economic Analysis (BEA) and Bureau of the Census as a means to carry out this responsibility. It is proposed by the SPCC that the projections produced in cooperation between BEA and Census, using the procedure described below, be used whenever State population projections are included as a factor in Federal funding decisions. Other sets of State population projections will continue to be produced by Census, BEA, and other agencies for other purposes.

The projections produced with the proposed procedure will be baseline projections, i.e., projections which reflect the essence of historical growth trends. Such projections will not attempt to take into account changes in intervention strategies by any level of government or by the private sector. Such projections will in no sense be intended as a goal, an assigned share, or a constraint on a State's economic activity or demographic growth. They should carry no connotation as to desirability or undesirability.

The results of the proposed procedure will be projections of State population levels, by sex and five-year age groups, for years that end in 0 and 5 and that occur during the 20-year period following the initial year of the projections. These results will be consistent with the most current national population projections prepared by Census.

There are major technical problems in developing a projection methodology that adequately embraces the many complex interrelationships between demographic and economic factors. The methodology outline below is an interim step in a continually evolving technology. As better techniques are developed, they will be incorporated into the projections methodology.

The proposed procedure consists of three major steps. First, preliminary baseline projections of the economic base in each State will be produced by BEA. These will then be used by Census in the preparation of a set of preliminary baseline State population projections. Following review of the preliminary projections, a set of final projections will be issued. These steps and the procedure for State review and comment are described below.

**Projections of the State Economic Base.** BEA has an ongoing program for producing baseline projections of regional economic activity, commonly referred to as the OBERS program. The

methodology employed in the OBERS program will be used to prepare the projections of the economic base in each State.

As a framework for the State-level economic base projections, national projections of output, earnings and employment by detailed (two-digit SIC) industry will be developed. These national economic projections will incorporate the national population projections prepared by Census in assumptions regarding labor force participation, productivity of labor, and unemployment.

Detailed projections of earnings and employment for each State are derived through the use of a model that specifies mathematical relationships among the economic variables for each State and between the State variables and their national counterparts. The mathematical relationships are specified so as to achieve consistency between the detailed State-level projections and the national projections.

The mathematical solution of the model is followed by a detailed review of the results. The review process provides an opportunity to incorporate additional information into the projections (for example, supplemental data series and knowledge of important events not yet appearing in statistical series). This stage also allows for the correction of anomalies that may result from exclusive reliance on mathematical models of economic systems.

The review is done from two perspectives. For each industry, the distribution of activity among the States is reviewed to identify anomalous shifts in industrial location patterns. For each State, the distribution of total economic activity among the industries is reviewed to identify anomalous shifts in industrial composition. Once the changes resulting from these reviews are made, national consistency is ensured via the balancing of corrections across all States. At this point, the levels of civilian employment resulting from the projections of the economic base will be transmitted to Census for use in preparing the population projections.

A description of the model can be obtained from the Chief, Projections Branch, Regional Economic Analysis Division, Bureau of Economic Analysis, Washington, D.C., 20230.

**Projections of State Population.** Census produces several series of population projections for States using the cohort component model under a number of different assumptions. The cohort component method uses separate assumptions about future fertility, mortality, and migration and produces demographic detail by age and sex. The

method used to produce this proposed baseline set of State population projections will be an expanded version of the basic model with a more elaborate treatment of the migration component.

The projections will handle separately the migration of the employed civilian population and its dependents, and the military, college, and elderly populations. The cohort component method will be used to project the total population by age, assuming no migration. After adjustment for Armed Forces and applying employment participation rates, the resulting projection of the employed civilian population will be compared to the civilian employment projected by BEA. The difference between the two projections will be assumed to be the migration of the civilian employed population. The migration of the remainder of the civilian noncollege and the youth populations will be determined on the basis of the migration of the employed population and the past trends in the age-sex specific migration rates. The migration of the military college, and elderly populations will be based on demographic rather than economic considerations.

The fertility, mortality, and net international migration components will be based on projected State differentials applied to the assumptions used in the most current national population projections prepared by Census. A detailed statement of the sets of methods and formulas currently being considered for this projections procedure can be obtained from the Chief, Population Projections Branch, Population Division, U.S. Bureau of the Census, Washington, D.C., 20233.

**Procedures for State and Local Review and Comment on the State Projections.** In preparing these projections, BEA and the Census will maintain a close working relationship with the States. Discussions are underway related to the establishment of a Federal/State Cooperative Program for Population Projections which could serve as the vehicle for technical exchange. In such a cooperative program, the Governor of each State would be invited to designate one State agency to participate in the program. The State agencies would review and comment on the preliminary projections. In addition, throughout the projections process—development of methodology, formulation of assumptions and generation of projected values—technical information would be provided by the Bureau of Economic Analysis and the Bureau of the Census to the State

agencies for review and comment. The exchange of information between States and regional and local agencies would be encouraged.

**Timing and Updating of the State Projections.** The first set of projections under these procedures will be prepared in 1981, based on the population counts from the 1980 Census of Population and an update of the 1979 BEA economic projections.

Major revision of the projections will be made when the complete demographic detail on migration flows from the 1980 Census is available and the 1984 version of the BEA OBERs projections is finalized. Major revisions twice a decade thereafter are contemplated. Between major revisions, and interim update may be produced if necessary to take account of more current population totals and economic data.

### C. Proposed Content of the OFSPS Directive

The Office of Federal Statistical Policy and Standards (OFSPS) is responsible for overseeing the use of these proposed population projections by the Federal agencies. In order to implement this Federal policy, OFSPS proposes to issue a directive establishing use of standard population projections in Federal funding programs by Federal agencies. This directive will set forth the following requirements:

(1) That the population projections developed according to the procedures and methodologies established in this notice shall be used by Federal agencies when population projections are a factor in allocating Federal funds.

(2) That these population projections should be used only in the context of a decision process and not in formula grant programs which allocate funds through the mechanical application of statistical data into a rigid formula, unless such formula grant programs were already in existence at the time this directive is proposed. If such established programs continue to use allocation formulae, they should incorporate the population projections developed according to this process.

(3) That Federal agencies shall use sub-State population projections developed according to the guidelines issued in the OMB circular described elsewhere in this notice, when sub-State projections are considered in fund allocation.

(4) That any Federal agency planning to use population projections as a factor in determining fund allocations shall first announce its proposed policy for review and comment. Such review shall

involve OFSPS and OMB as well as the general public.

(5) Agencies currently using population projections in funding decisions may continue using the same projection series until the standard State and sub-State projections are developed.

(6) Agencies developing proposed legislation involving the use of population projections in fund allocations must ensure that the provisions of such proposed legislation are consistent with the principles outlined in the OFSPS directive or must identify and justify any departures from such principles at the time the proposed legislation is submitted to the OMB for review pursuant to OMB Circular No. A-19.

**Executive Order 12044 and Regulatory Analysis.** The President issued Executive Order 12044 on improving government regulations in March 1978. OFSPS and OMB have carefully reviewed the requirements for a regulatory analysis, to determine whether one should be prepared for this proposed policy. A regulatory analysis is not required, since this is a policy mandating development of a new statistical series, and statistical series are not customarily subject to regulatory analysis. Where appropriate, regulatory analysis would be performed by an agency actually using these projections.

A complete discussion of the issue of a regulatory analysis is included in the accompanying OMB notice in this issue of the Federal Register. That discussion also mentions the consultations with State and local representatives which have occurred to date.

[FR Doc. 79-37311 Filed 12-4-79; 8:45 am]

BILLING CODE 3510-BG-M

## OFFICE OF MANAGEMENT AND BUDGET

### Intention To Develop Circular Setting Forth Procedures for Coordination Between State and Substate Units of Government in Preparation of Population Projections on Substate Basis

**AGENCY:** Office of Management and Budget.

**ACTION:** Notice of intention to develop an Office of Management and Budget circular setting forth procedures for coordination between State and substate units of government in the preparation of population projections on a substate basis.

**SUMMARY:** As part of an overall Federal effort to require the use of standard

population projections whenever such projections are used by various Federal assistance programs, the Office of Management and Budget is publishing for public comment a number of proposed procedures. These procedures would: (1) Establish requirements for certain coordination activities between State and substate units of government in the course of distributing the federally projected total State population among counties, cities, and towns within the State; (2) reference the opportunity for States and substate units of government to adjust "baseline" projections to reflect the effect of laws and policies expected to influence population growth patterns; and (3) set out a responsibility for the ten Federal Regional Councils to review these coordination procedures and any State's proposed adjustment of a "baseline" population projection.

As discussed in Part D, no regulatory analysis has been proposed for this notice. This notice should be reviewed in conjunction with the notice by the Office of Federal Statistical Policy and Standards (OFSPS), Department of Commerce on the subject of population projections published concurrently in this volume and number of the Federal Register.

**DATE:** Written comments are due on March 4, 1980.

**ADDRESS:** Submit written comments on the contents of this notice only to: Deputy Associate Director for Intergovernmental Affairs, Office of Management and Budget, Room 5234, New Executive Office Building, Washington, D.C. 20503. Public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

If your written comments concern the overall policy of standardizing population projections or discuss points contained in both this and the other notice, these comments should be sent to: Director, Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C. 20230. The Office of Federal Statistical Policy and Standards is serving as the clearinghouse for all general comments received on these two notices.

**FOR FURTHER INFORMATION, CONTACT:** Walter S. Groszyk, Jr., Intergovernmental Affairs Division, Office of Management and Budget, Washington, D.C. 20503; phone (202) 395-3157.

### SUPPLEMENTARY INFORMATION:

#### A. Background

The Office of Management and Budget (OMB) was assigned responsibility by

the Statistical Policy Coordination Committee (SPCC) for carrying out an SPCC recommendation which specified that States should develop procedures and guidelines to generate consistent substate population projections. A complete discussion of the SPCC activities and recommendations on population projections is presented in the OFSPS notice in this edition of the Federal Register.

OMB does not generally promulgate regulations. Instead, through the use of directives or circulars applicable to Federal agencies, OMB prescribes certain standards or requirements that must be met or activities that must be conducted. These requirements or activities are then incorporated in the appropriate regulations of affected Federal agencies, and may in turn be applied to State and local governments. OMB's present intention is to take this path in establishing procedures to be followed by State and substate units of governments in distributing projections of State population among individual counties, cities, towns and other governmental jurisdictions within that State.

The proposed OMB procedures will cover the last step in a process of developing a standardized, consistent set of population projections for use in certain Federal assistance programs. Initially, the Department of Commerce will prepare a series of State level population projections consistent with the latest national population projection prepared by the Bureau of the Census. The proposed procedures and methodologies for developing the State series are described in the OFSPS notice. The OMB procedures would require the projected State total population to be subsequently distributed (disaggregated) among local geographical areas. The process used to distribute the population among substate areas will be left to State discretion. (For example, a State may choose to assign population numbers by regional areas within a State and then rely on councils of governments to further disaggregate the regional totals among individual communities. Alternatively, a State may wish to pursue a "bottom up" approach, first allowing individual communities to prepare their own projections, progressively aggregate these projections by area, and then reconcile and conform the sum of the community and area projections to the State population projection prepared by the Department of Commerce.)

Several suggestions have been made that the circular assign certain

mandatory responsibilities in the population distribution process to various types of substate units of government. (Substate government is defined later on in this notice.) Such role assignments have not been included because no uniform substate government structure exists nationally.

Between and within States, capabilities, responsibilities and interests may substantially differ for individual units of the same class of substate government. This lack of homogeneity with regard to traditional institutional roles makes it difficult to select any particular class of substate government and be confident that they, as a class, can perform any such assigned role. While the circular would leave to the State the organizing and assigning of substate government roles, OMB intends that States provide for substate government involvement to the fullest practical extent in this distribution process. States would be particularly encouraged to use areawide agencies (councils of government, regional planning agencies) in this regard.

A baseline<sup>1</sup> substate projection must initially be prepared. Subsequently, an alternate population projection series may be developed. This alternate series is discussed later in this notice; the conditions under which the alternate series may be developed are discussed in the OFSPS notice.

Federal agencies having programs likely to be affected by this policy include the Departments of Transportation; Housing and Urban Development; Commerce; Agriculture; Interior; and Health and Human Services; the Environmental Protection Agency; the Tennessee Valley Authority; the Appalachian Regional Commission; and the U.S. Army Corps of Engineers.

The types of programs most directly affected by these policies are those which use Federal funds to construct capital facilities having a long period of expected use. These funds may be used by Federal, State, or local governments. The design of these capital facilities (such as sewers, transportation systems, water supply lines) often incorporates allowances for future growth and increased use over the expected life of the facility. Under this policy, where additional capacity is designed into a facility in anticipation of future population growth, then any Federal

<sup>1</sup>A "baseline" series of projections is defined as projections based on a defined set of economic and/or demographic assumptions and which attempt to capture and reflect the essence of historical growth patterns. They do not attempt to take into account further changes in intervention strategies by any level of government or by the private sector.

funding of this added capacity should be consistent (as established by individual Federal agency policy) with the projected population of the area to be served by the facility.

For nearly all Federal programs affected by this policy, a consistent set of local area population projections is needed. Since Federal agencies and programs may need varying degrees of disaggregation (while most indicate that a county or multi-county disaggregation is sufficient, others may require projections for smaller areas), the Office of Federal Statistical Policy and Standards is reviewing the level and type of demographic disaggregation that must be reached to satisfy reasonable agency and program requirements. This information will be provided to the States prior to the States commencing the distribution process.

This notice details the proposed content of an OMB circular to be issued early in 1980. OMB anticipates that the requirements in the final circular would not be in any more detail than what appears in this notice. OMB's intention is for the circular to establish a minimum set of requirements and provide for the greatest possible flexibility in meeting those requirements.

OMB circulated draft copies of the proposed notice to a number of organizations. In several instances, very detailed comments have been provided. Some of these comments have been included in this notice. OMB intends discussing the disposition of all comments that have been received in the preamble to a future Federal Register notice containing the issued circular.

## B. Proposed Content of the OMB Circular

The following procedures, as indicated, apply to the preparation of a baseline projection and to any subsequent alternate projection series.

### *Development of Baseline Projections and Alternate Series for Substate Areas*

Each State would be required to establish an initial baseline projection for substate areas within a State. States may subsequently adjust these baseline projections for substate areas to reflect recently enacted legislation, major governmental policies, or other substantive intervention strategies. A more detailed discussion of rationales for intervention strategies is presented in the OFSPS notice in this edition of the Federal Register.

*Proposed Coordination Procedures for State Government*

States would be required to designate a single State agency to direct the State portion of the process for distributing population. The designated State agency would be required to coordinate with other State agencies having responsibility for, or a major interest in, Federal programs affected by use of a standardized population projection. The designated agency need not be the only State agency conducting the distribution process.

States would be required to develop a reasonable schedule (generally no longer than a year after receiving the total State projection from the Department of Commerce) for completing the distribution of the projection among local areas. The schedule would include dates for completing a baseline series distribution and a subsequent alternate projection series if this latter is prepared.

States would be required to develop procedures providing for coordination with substate units of government in the process of distributing the State population total (projected by the Department of Commerce) among local areas. This coordination would include the opportunity for substate units of government to participate in the distribution process for both baseline and alternate series, and also provide for the involvement of elected officials in any process of developing an alternate series.

States would be required to establish dispute resolution procedures in the event of disagreement between the State and substate units of government, or between substate units of government within the State over the proposed distribution of population among local areas.

For both baseline and alternate series, States would be required to provide the opportunity for participation in the distribution process by citizens, public interest groups and other organizations. The State would be required to make available for reference and examination by citizens, organizations and local governments, the State procedures and methodologies for distributing population. (Organizations and individuals are likely to find it more important to be involved in the development of the assumptions and variables used in any State methodology, rather than engaging in belated reaction to the numerical results of that methodology.)

States would be encouraged to provide appropriate technical assistance to substate units of government in the

preparation of the substate distribution. It is also OMB's intention to encourage States to use areawide agencies as the principal substate units of government if substate governments are to prepare the substate projections. However, States will not be required to do so.

*Proposed Coordination Procedures for Substate Governments*

For the purposes of simplified presentation in this circular, substate governments include general purpose governments (examples are: counties, cities, towns), special purpose governments (examples are: sewer, school districts) and associations of governments (examples are: councils of governments, development districts, regional planning agencies).

The Federal government will not require individual substate governments to participate in either a baseline or alternate series distribution process. However, if substate governments choose to participate, they would then be required to identify their proposed procedures providing for the opportunity for involvement by elected officials, citizens public interest groups, and other organizations in the distribution process. These substate procedures for public involvement should complement, and could in part supplant, similar State efforts.

For those areas of the country where local government clearinghouses under OMB Circular A-95 are functioning, State and/or substate units of government would be required to submit the proposed disaggregated population totals for the individual local areas within the A-95 geographical boundaries, to the clearinghouse for review.

OMB recognizes that in some instances, the A-95 clearinghouse and the areawide agency conducting coordination activities will be the same. Under such circumstances, States would be expected to exercise an appropriate level of oversight over the substate distribution prepared and reviewed by the areawide agency.

*Proposed Coordination Procedures for Interstate Areas*

Some interstate geographical areas are economically and socially interwoven. The population projection for portions of such an area is often more dependent on the growth factors of the adjacent State than for the State in which a community is located.

The OMB circular would allow the governors of two or more States to agree to identify the boundaries of the interstate area and to jointly develop a population projection for such an area.

The State-substate coordination procedures of the State having the largest proportion of the total current population in the interstate area would govern.

Generally, the substate distribution of population for local areas within the interstate area would have to be consistent with the total baseline projection for the State in which the particular areas are located. However, after approval by affected States, a portion of the interstate area population could be shifted between States as long as the total population projection under the baseline series for the interstate area was not changed. If such a shift is made, the total population for the affected States would then be adjusted.

*Sanction*

OMB intends to direct Federal agencies to amend, as necessary, their regulations to provide for Federal funding of capacities reflecting existing population only (without allowance for future population growth) in the event a substate distribution has not been completed within a reasonable time. Under this sanction, future population growth could be funded in those substate areas where a final distribution of population had been made. As an example, where there was agreement on the population total for a county, but no agreement reached on the distribution of that total among cities and towns within the county, then future growth could not be funded in these cities and towns. As this disagreement did not affect population totals for the State or for other counties in the State, future population growth could continue to be funded elsewhere. (An alternative sanction is discussed in Part C, Issues.)

*Applicability*

The requirements for substate distribution of State population projections would apply to all States. No substate projection for the District of Columbia need be prepared as the District of Columbia is a city. No substate projections are required for the other territories of the United States as the Department of Commerce is not preparing State level projections for these areas.

*Federal Government Role in Coordination Procedures*

OMB's intention is to assign a major responsibility to the Federal Regional Councils (FRCs) in the population projection process. Federal Regional Councils are located in the headquarters city for the ten standard Federal regions. These cities are Boston, New York, Philadelphia, Atlanta, Chicago, Dallas,



Kansas City, Denver, San Francisco, and Seattle. The members of the FRCs are the senior agency officials of the various Federal agencies having a regional office in these cities, as well as the Federal cochairperson of the Title V Regional Action Commissions.

The FRCs would be responsible for reviewing a State's proposed procedures for intergovernmental coordination and participation for conformance with the objectives and standards set forth in the OMB circular. A State would be required to submit these procedures for timely FRC review before the release of the State population projections by the Department of Commerce in early 1981. The State submission would incorporate any proposed procedures and efforts to be performed by substate units of government in the disaggregation process.

The FRCs would be responsible for reviewing a State's rationale for an alternative to the baseline projections for substate areas to reflect the impact of intervention strategies or policies. The rationale should contain citations and references to established and approved State or local laws, policies, and plans that could be expected to impact population growth trends within the State. The purpose of the FRC review is to preclude any intervention effort based on whimsical or transitory predilections. The review would be on the substantive basis of the rationale only, and not on the merit of any adjustment.

Each FRC would be allowed to establish the specific methods and staff responsibilities it wished to use in performing this review function for the States within its region.

The FRC's would also be responsible for notifying the affected Federal agencies when a State's substate disaggregation process was completed and the substate projections should now be used by the Federal agencies. (Generally, it is expected that the local area projections should be completed by mid-1982.)

The Department of Commerce in Washington, D.C. would review the technical methodology each State would use in preparing a baseline series of substate projections. This review would only be to ensure that generally accepted principles for a baseline methodology are used in the development of the baseline projection. The Federal Government will not require the State methodology to be comparable in sophistication to the Federal methodology. The technical methodology would be submitted to the Department of Commerce no later than December 1, 1980.

Finally, the Federal Government will attempt to provide as much technical assistance to the States as possible.

#### C. Issues

A number of issues have not yet been addressed in the proposed OMB circular. Comments are particularly solicited on these issues.

#### *Eligibility for Federal Funding of Substate Distribution Process*

Suggestions have been made that the Federal Government should help finance the costs incurred by State and substate units of government as they engage in the process of disaggregating projections on a substate basis. No decision has been made as to whether or how some of these costs might be federally financed. Commenters who can estimate the costs of conducting this substate distribution process (considering any offset resulting from the cost savings that should occur as present Federal requirements for duplicative or overlapping projections are eliminated) are encouraged to do so.

#### *Resolution of Disputes Between a State and Substate Area(s)*

There may be a need for the Federal Government to be able to apply its own appeal/arbitration procedures in the event a dispute between a State and substate area(s) appears irreconcilable under the State dispute resolution system. Views on whether such a Federal appeal/arbitration system should be established and the type of appeal/arbitration process that might be most suitable would be helpful.

#### *Direct Federal-Substate Government Coordination*

The possibility is foreseen that a State(s) may choose not to participate in the substate distribution process. Under such circumstances, the application of sanctions as described previously would presumably address such a situation. However, suggestions on whether or how direct Federal/substate coordination might be accomplished in the absence of any use of sanctions are welcomed as well as views on whether it would be appropriate under such circumstances for the Federal Government to allow for any adjustments to baseline projections between substate areas in the absence of State participation.

#### *Sanctions*

An alternative procedure to the sanction described previously in this notice has been proposed. This procedure would also be used if a substate distribution of population was

not completed in a timely manner. Under this procedure, Federal agencies would continue to obligate funds on the basis of projected population, but in accordance with the Federal Government's allocation of growth among all geographic areas within a State. This Federal allocation would assign future growth on a straight-forward proportional basis, calculated on the percentage of present population that each community has of the total State population as of the most recent census. This procedure would allow for growth to be funded, but at a uniform growth rate identical to that of the State as a whole. Higher growth areas would be penalized, lower growth areas rewarded. Comments on the preferability of either sanction are welcome.

#### *State Role in Review and Approval of Substate Government Procedure.*

It has been proposed that the OMB circular include a requirement that when substate units of government choose to participate in the distribution process, State governments would review and approve proposed substate government procedures for coordination and participation at the local government level. This policy of State review would obviate any necessity for the FRCs to conduct this review and would assign ultimate responsibility to the State to assure that satisfactory coordination and participation programs were being conducted at the local level.

#### *Use of Federal Regional Councils*

OMB is proposing that the ten Federal Regional Councils be given most of the responsibility for interacting with States in the population distribution process. This selection is being proposed for two reasons. First, the members of the FRC represent most of the agencies affected by this policy; and, secondly, an FRC should possess a better awareness of governmental and public relationships within a State than an agency headquarters in Washington, D.C.

A number of comments have been received by OMB expressing some reservation over this proposed FRC role. Several of these comments have proposed that a single Federal agency in each region be assigned this responsibility; others proposed that the FRC role be performed in Washington. Comments are solicited, particularly as to how the Federal Government might best be involved in this State-substate coordination process.



**D. Executive Order 12044, Public Participation, and Regulatory Analysis**

The President issued Executive Order 12044 on improving government regulations in March 1978. OMB is committed to complying with the spirit and intent of that Executive Order. In the course of preparing this notice of a proposed circular, OMB staff have met with representatives of twelve State and local government interest groups that are located in Washington, the executive directors and staff of approximately 20 member organizations of the National Association of Regional Councils, officials of 42 States, and a representative of the Sierra Club.

These discussions have been very useful in developing the content of this proposed circular. A further program of public participation will occur during the comment period for this draft circular. As part of this program it is anticipated that a number of public hearings will be held on this policy of standardizing population projections. These public hearings will be a joint effort by both the Department of Commerce and OMB. Dates and locations of the hearings will be announced in a future edition of the Federal Register.

OMB has carefully reviewed whether a regulatory analysis should be prepared for this proposed circular as well as for certain of the associated efforts by the Department of Commerce. The conclusion reached was that a full regulatory analysis is not required. The Department of Commerce and OMB efforts basically relate to the preparation of a new statistical series. Statistical series are not customarily subject to regulatory analysis.

OMB is aware that the proposed Federal effort to standardize population projections is fraught with potential controversy. Already, allegations have been raised that, in summary, assert that the Federal Government will be dictating growth. It would be disingenuous to insist that standardization of population projections will have no bearing on how communities, States, or regions of the country might grow in future years. However, OMB believes that this standardization of projections, while one influence on growth patterns, will not be the predominant factor of where and how much growth occurs. For example, the proposed policy provides a great deal of flexibility. State and local governments will be able to fund facility capacities above that financed by the Federal Government. As a policy decision, Federal agencies may fund, on a nationwide basis, for facility capacities above those needed for the

projected population. Additionally, population projections will be periodically revised. Finally, differences in regional costs, resources, and markets and in State and local government policies are also major influences on regional growth patterns.

OMB also reemphasizes the point made elsewhere in the discussion on the SPCC recommendations that this standardized series of population projections is required to be used only by certain Federal assistance programs with regard to the amount of Federal funding to be provided to a recipient. The procedures in this notice apply only to those programs and should not preclude or discourage any unit of government from using alternate projections for planning purposes, for analysis of program impacts, or for other purposes.

This proposed standardization of population projections is a part of an ongoing OMB effort to reform the many planning requirements placed on State and local governments by Federal agencies. Commenters are welcome to suggest other areas where standardization of presently duplicative or contradictory Federal requirements for data would be beneficial.

Dated: November 23, 1979.

James T. McIntyre, Jr.,

Director.

[FR Doc. 79-37312 Filed 12-4-79; 8:45 am]

BILLING CODE 3110-01-M



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Wednesday  
December 5, 1979

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**Part IV**

**Council on Wage  
and Price Stability**

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Rules on Confidentiality, Access to  
Records, and Council Factfinding

**COUNCIL ON WAGE AND PRICE STABILITY****6 CFR Parts 702, 703, 704****Rules on Confidentiality, Access to Records and Council Factfinding****AGENCY:** Council on Wage and Price Stability.**ACTION:** Publication of Final Rules.

**SUMMARY:** On October 12, 1979, the Council published proposed revised rules on confidentiality (Part 702), access to records (Part 703), and Council factfinding (Part 704) (44 FR 59166). The Council solicited public comment on these proposed rules as well as on all aspects of our administration of confidential information, records access, and investigations. In response to the comments received, the Council has clarified the proposed rules and corrected typographical errors. These rules are now adopted in final form.

**EFFECTIVE DATE:** December 5, 1979.

**ADDRESS:** Questions regarding the Council's rules in 6 CFR Parts 702, 703, and 704 should be addressed to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506.

**FOR FURTHER INFORMATION CONTACT:** Barbara Hunter (202) 456-6210.

**SUPPLEMENTARY INFORMATION:** The Council received six comments on the proposed revisions to 6 CFR Parts 702, 703, and 704. In general, the commentators supported the proposed changes as clarifying and simplifying the Council's procedures, especially to the extent that they afford increased protection to confidential information. However, certain changes were suggested, which are discussed below.

One commentator noted that, although the procedural rules in Part 706 indicate that periodic reports such as PM-1 and PAY-1 will be treated as "confidential in their entirety," proposed Part 702 is ambiguous as to whether these reports will be treated as confidential when they are "ordered" as opposed to "requested". To conform to the Council's authorizing statute (12 USC 1904 note), proposed § 702.11(a) has been clarified to state that *all* periodic report forms will be treated as confidential in their entirety. In addition, a new § 702.10(c) has been added, stating that no request for confidential treatment need be made for periodic report forms.

In addition, subsections (a)(2) and (a)(3) of § 706.11 were viewed by some as lessening the protection accorded to product line or other category

information. As noted above, such information is accorded confidential treatment, and the language of these subsections has been modified so as to ensure that the status of such information is not compromised. At the same time, however, the Council will maintain the distinction between the treatment of records submitted voluntarily and those obtained by resort to legal processes.

With respect to Subpart D of Part 702, some commentators urged that there be notice of impending disclosure to persons who submitted information with a request for confidential treatment before the documents are disclosed. In response, a new paragraph (a) has been added to proposed § 702.32 reflecting the current Council practice of giving notice to the person submitting the records before they are disclosed.

The comments also raised a number of less significant issues that do not require changes in the rules. These include comments that questioned the need for a nonconfidential version of documents including confidential information; that objected to the disclosure of confidential data to consultants even though they are sworn as Council employees; and that urged more time to respond to a subpoena or order and/or more advance notice of a hearing.

Finally, § 703.3, concerning Privacy Act requirements, has been revised to include a provision for annual notice of the routine uses of the records.

The final rules also include correction of several typographical errors.

Issued in Washington, D.C., November 29, 1979.

R. Robert Russell,  
*Director, Council on Wage and Price Stability.*

Accordingly, 6 CFR Parts 702, 703, and 704 are revised to read as follows:

**PART 702—PUBLIC ACCESS TO RECORDS****Subpart A—General**

Sec.

702.1 Purpose and scope.

702.2 Waiver.

**Subpart B—Confidential Business Records**

702.10 Requests for confidential treatment.

702.11 Confidential records.

702.12 Predetermination of confidentiality.

702.13 Confidential treatment.

702.14 Immunity of certain information from legal process.

**Subpart C—Records From Other Agencies**

702.20 Responses by agencies and departments to Council requests for records or information.

Sec.

702.21 Confidentiality of records or information obtained from other agencies or departments.

**Subpart D—Requests for Disclosure of Records**

702.30 Written requests.

702.31 Time for initial decision.

702.32 Notice of initial decision.

702.33 Preservation of requests and notices.

**Subpart E—Appeal**

702.40 Appeal.

702.41 Time for appellate decision.

702.42 Notice of appellate decision.

**Subpart F—Access to Records; Fees**

702.50 Access.

702.51 Fees.

702.52 Prior approval or advance deposit of fees.

**Authority.**—Freedom of Information Act, as amended (5 U.S.C. 552); sec. 4 of the Council on Wage and Price Stability Act, as amended (12 U.S.C. 1904, note).

**Subpart A—General****§ 702.1 Purpose and scope.**

This part establishes the Council's procedures for providing public access to Council records in accordance with the Freedom of Information Act, as amended, 5 U.S.C. 552, and for establishing the confidential status of specific records within the Council's custody or control, under Section 4 of the Council on Wage and Price Stability Act, as amended, 12 U.S.C. 1904, note.

**§ 702.2 Waiver.**

The Director or General Counsel may, as to an individual request for records, waive any of the procedural requirements or fees of this part in order to facilitate public disclosure of records that are not confidential or otherwise required to be withheld.

**Subpart B—Confidential Business Records****§ 702.10 Requests for confidential treatment.**

(a) Any person requesting confidential treatment of records submitted by that person to the Council should make the request in writing. The request should accompany the records for which confidential treatment is sought and identify with specificity each portion of the records believed to be confidential.

(b) To the extent possible, records for which confidential treatment is requested should be separately bound or otherwise segregated from any accompanying material for which confidential treatment is not requested. A second copy of records for which confidential treatment is requested, with the confidential information deleted,

should be provided for public disclosure purposes.

(c) Requests for confidential treatment are not necessary for periodic reports, such as PM-1 or PAY-1, and public disclosure copies need not be provided.

#### § 702.11 Confidential records.

(a) The following types of records will be treated as confidential:

(1) Periodic reports such as PM-1 and PAY 1, containing product-line and other category information;

(2) Any record or portion of a record relating to wages, costs, productivity, prices, sales, profits, imports, or exports for an individual firm or person that is voluntarily provided to the Council with a request for confidential treatment and that would not have been provided but for the confidential treatment; and

(3) Any record or portion of a record relating to wages, costs, productivity, prices, sales, profits, imports, or exports, for an individual firm or person that is obtained by subpoena or order with a request for confidential treatment and that is considered by the Council to be confidential information.

(b) The following types of records may be treated as confidential:

(1) Privileged or confidential trade secrets and commercial or financial information, to the extent that such information is not in fact published or otherwise available on a nonconfidential basis;

(2) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Council, to the extent that such documents have not been publicly released by the Council; and

(3) Other records exempt from the disclosure requirements of 5 U.S.C. 552.

#### § 702.12 Predetermination of confidentiality.

(a) Any person or organization making a voluntary submission of records to the Council may request a written predetermination from the General Counsel that a portion or all of those records will be treated as confidential. The request should comply with the requirements of § 702.10 and should be:

(1) Submitted directly to the General Counsel and clearly marked "Conditional Submission/Eyes Only General Counsel"; and

(2) Accompanied by a statement explaining the basis for confidential treatment of such records.

(b) The Office of General Counsel will examine the records for which predetermination of confidential treatment is sought and promptly notify

the party making the request of the determination.

(c) If the Office of General Counsel decides that any record or portion of a record submitted in accordance with the procedures of this section is not confidential, no other person will examine or reproduce that record. The Office of General Counsel will record the general type of information submitted, when it was furnished, and when it was returned; and the record will promptly be returned to the person who submitted it to the Council.

#### § 702.13 Confidential treatment.

Any record or portion of a record accorded confidential treatment under §§ 702.11 and 702.12 will not be disclosed to anyone other than officers, members, and employees of the Council (including consultants who sign confidentiality agreements). However, nothing stated herein will prohibit the Council from disclosing or publishing product line or other category information when the information is aggregated in a manner that does not separately disclose specific information obtained from an individual firm or person.

#### § 702.14 Immunity of certain information from legal process.

Periodic reports requested by the Council and confidential product line or other category information submitted to the Council, and copies of such reports and information as retained by the reporting firm or person, will be immune from legal process.

#### Subpart C—Records From Other Agencies

##### § 702.20 Responses by agencies and departments to Council requests for records or information.

When supplying records or other information to the Council, a Federal, State, or local agency or department should: (a) Indicate whether the records or other information are confidential; and (b) specify any of the agency's or department's applicable rules of practice and procedure that govern disclosure of the material supplied.

##### § 702.21 Confidentiality of records or information obtained from other agencies and departments.

(a) Disclosure by the Council of data or other information obtained from a Federal, State, or local agency or department will be in accordance with 5 U.S.C. 552 and the applicable rules of practice and procedure of the agency or department from which the records or other information were obtained.

(b) If the agency or department from which the records or other information were obtained has no rules of practice and procedures governing disclosure, the Council will apply its own rules as set forth in this part.

#### Subpart D—Requests for Disclosure of Records

##### § 702.30 Written requests.

Any request for records within the custody or control of the Council should be in writing and addressed to the Office of General Counsel. The request should describe and identify, in reasonable detail, the particular documents or records requested. The request should also state the maximum fee, calculated in accordance with the fee schedule in Subpart F, that the party making the request would be willing to pay, without further authorization, for search time and duplication of the requested records.

##### § 702.31 Time for initial decision.

(a) The General Counsel will, within ten business days after receipt of a written request for records, determine whether to grant or deny the request, in whole or in part. When confidential information is requested, the General Counsel will consider, among other alternatives, the possibility of excising confidential matter from requested records and disclosing the nonconfidential portions.

(b) The General Counsel may extend by no more than ten business days the time within which a decision will be made if: (1) There is a need to collect or examine a large volume of records; (2) there is a need to search for and collect the requested records from outside the Council's offices; (3) there is a need to notify a person that has submitted requested records; or (4) there is a need to consult with another agency having a substantial interest in the decision. Notice will be sent to the person making the request, stating the reasons for the extension and giving the expected date of the decision.

##### § 702.32 Notice of initial decision.

(a) If the General Counsel decides to disclose records or portions of records submitted to the Council with a request for confidential treatment, notice will be given to the person submitting those records before they are disclosed.

(b) The General Counsel will, upon making a decision in response to a request for records, promptly give written notice to the person making the request.

(c) If the decision is to grant a request, in whole or in part, the notice will

describe the records requested and the procedures for either making them available for inspection or delivering copies to the requesting party. The notice will also include a statement of the search and duplicating fees under Subpart F of this part.

(d) If the decision is to deny a request, in whole or in part, the notice will briefly describe the records requested, state the reasons for denial, and notify the requesting party of the procedures for administrative appeal under Subpart E of this part.

(e) When the request pertains to material that has been accorded confidential treatment under Subpart B or C of this part, notice of the decision will be given to the person or agency who originally provided the information to the Council.

#### **§ 702.33 Preservation of requests and notices.**

The Office of General Counsel will preserve requests for records and notices of decisions for at least one year.

### **Subpart E—Appeal**

#### **§ 702.40 Appeal.**

(a) Any person who receives a denial or partial denial of a request for records may, within 30 business days after the date of the decision, appeal the decision to the Director of the Council. Any person who has not received a timely response from the Council to a written request for records may also appeal to the Director for a decision.

(b) An appeal to the Director should be in writing and include a copy of the initial request, a copy of the general Counsel's decision (if one has been received), and a statement of the legal, factual, or other bases for the appeal.

#### **§ 702.41 Time for appellate decision.**

(a) The Director will, within 20 business days after receipt of an appeal, determine whether to grant or deny the appeal, in whole or in part.

(b) The Director may extend by no more than ten business days the time within which an appellate decision will be made for any of the reasons set forth in § 702.31(b). Notice will be sent to the person making the appeal stating the reasons for the extension and giving the expected date of the decision.

#### **§ 702.42 Notice of appellate decision.**

The Director will give written notice of the decision on appeal to the person making the appeal and, if applicable, to the person who originally provided the information to the Council. If adverse to the appealing party, the notice will state

the reasons for the decision and the right to judicial review.

### **Subpart F—Access to Records; Fee**

#### **§ 702.50 Access.**

Records that are made available pursuant to this part will be made available promptly. If the records or copies are voluminous, the Office of General Counsel may provide for inspection and copying during regular business hours at the offices of the Council. Otherwise, copies of the requested records may be sent by mail or delivered to the person making the request.

#### **§ 702.51 Fees.**

(a) Fees may be charged by the Council for search time and duplication according to the following schedule:

(1) *Search for records*—\$5 per hour when conducted by a clerical employee; \$8 per hour when conducted by a professional employee.

(2) *Duplication of records*—\$.25 per page.

(3) *Other*—When no specific fee has been established for a service, the Council may charge a reasonable fee based on direct costs. If requested records are stored at locations other than at the offices of the Council, costs of delivery to the Council's offices will be charged.

(b) Search costs are assessed regardless of whether the requested records exist or are determined to be confidential.

(c) Fees should be paid by check, money order, or bank draft made payable to the Treasurer of the United States.

#### **§ 702.52 Prior approval or advance deposit of fees.**

(a) When the Council estimates that the total of search-time costs, duplication expenses, or other fees will be greater than the amount authorized in the request (or, in the absence of such authorization, when the total estimated fees are greater than \$25), the Council may ask the person requesting the records to authorize the estimated fees or reformulate the request.

(b) When the estimated fees exceed \$25, the Council may ask the person requesting records to make an advance deposit.

(c) When the Council asks for advance approval of fees or a deposit, the time period for the Council to respond under §§ 702.31 and 702.41 will be suspended until an authorization, deposit, or new request is submitted.

### **PART 703—ACCESS TO COUNCIL RECORDS ABOUT AN INDIVIDUAL**

#### **Sec.**

703.1 Purpose and scope.

703.2 Definitions.

703.3 Notice of systems of records maintained by the Council.

703.4 Right to request information.

703.5 Procedures for requests for access to records.

703.6 Requirements for identification of individuals making requests.

703.7 Disclosure of requested information.

703.8 Request for correction or amendment.

703.9 Review of request for correction or amendment.

703.10 Appeal of initial denial of access, correction, or amendment.

703.11 Statement of Disagreement.

703.12 Disclosure Docket.

703.13 Fees.

703.14 Penalties.

Authority: Privacy Act of 1974 (5 U.S.C. 552a); Council on Wage and Price Stability Act, as amended (12 U.S.C. 1904, note).

#### **§ 703.1 Purpose and scope.**

(a) This part sets forth the regulations of the Council on Wage and Price Stability implementing the Privacy Act of 1974, 5 U.S.C. 552a. These regulations concern the Council's records that contain personal information about individuals indexed by personal identifiers.

(b) A request by any person or agency seeking disclosure of personal records of another individual pursuant to the Freedom of Information Act will be processed in accordance with Part 702 of this chapter.

(c) These regulations do not apply to members, officers, or employees of, or authorized consultants to, the Council who need to review the records in the performance of their official duties.

#### **§ 703.2 Definitions.**

(a) "Assistant Director" means the Council's Assistant Director for Administration and Management.

(b) "Individual" means a person who is a citizen of the United States or an alien lawfully admitted for permanent residence.

(c) "Maintain" includes maintain, collect, or use.

(d) "Record" means any item, collection, or grouping of information maintained by the Council about an individual that relates to such matters as education, financial transactions, medical history, criminal history, or employment history and that contains the individual's name or an identifying number, symbol, or other identifying particular assigned to the individual.

(e) "System of records" or "records system" means a group of any records maintained by the Council from which



information is retrieved by the name of an individual or some other individual identifier.

**§ 703.3 Notice of systems of records maintained by the Council.**

(a) The Council will publish in the Federal Register a description of the systems of records that the Council maintains. For each such system of records, the description will include:

- (1) The system name;
- (2) The system location;
- (3) The categories of individuals covered by the system;
- (4) The categories of records in the system;
- (5) The routine uses of the records, including the categories of users and purposes of such uses;
- (6) The Council's policies and practices for maintenance of the system;
- (7) The system manager;
- (8) The procedures for notification, access to and correction of records in the system; and
- (9) The sources of information for the system.

(b) Notices of significant changes in or additions to the Council's systems of records will also be published.

**§ 703.4 Right to request information.**

(a) Any individual may request the Council to indicate whether a system of records contains a record pertaining to that individual. The request may be made by mail or in person during business hours at the Office of the Assistant Director, the Winder Building, 600 17th Street, NW., Washington, D.C. 20506.

(b) Any individual, or that individual's properly authorized designee, who desires to review or obtain a copy of a record pertaining to that individual may make a request by mail or in person during business hours at the Office of the Assistant Director.

**§ 703.5 Procedures for requests for access to records.**

(a) Each individual requesting disclosure of a record under this part should:

- (1) Submit proof as required by § 703.6 that he or she is the individual to whom the requested record relates; and
- (2) Specify or describe the particular record and the system of records in which the record is maintained.

(b) An individual personally inspecting his records may be accompanied by another person of his or her choosing.

(c) Any individual who desires to have a record concerning that individual disclosed to or mailed to another person may authorize that other person to

receive the requested information. The authorization must be in writing, signed by the individual, and notarized.

**§ 703.6 Requirements for identification of individuals making requests.**

(a) Any individual requesting access to records concerning that individual must establish his or her identity by:

- (1) Presenting a document bearing a photograph and signature (such as a passport or driver's license);
- (2) Presenting at least two items of identification bearing a name and address;

(3) Providing a written statement affirming his or her identity and the fact that he or she understands the penalties for making false statements (18 U.S.C. 1001 and 5 U.S.C. 552a(i)(3)); or

(4) Providing a written statement, signed by the individual and properly notarized, that he or she appeared before a notary public and submitted proof of identity acceptable to the notary public.

(b) Any individual requesting access to records concerning another must:

- (1) Present the authorization required by § 703.5(c); and
- (2) Establish his or her own identity as required by paragraph (a) of this section.

**§ 703.7 Disclosure of requested information.**

(a) Subject to paragraph (b) of this section, the Assistant Director will promptly allow the requesting individual to see and/or have a copy of the requested record or, if applicable, send a copy of the record to the individual by mail.

(b) The Assistant Director may deny access to records in a system of records that is within the terms of 5 U.S.C. 552a (j) and (k), including those systems that are:

(1) Required by statute to be maintained and used solely as statistical records;

(2) Investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence; or

(3) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the

disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(c) If the Assistant Director determines that the requested records are exempt from the right of access under paragraph (b) of this section or that the procedures in this Part have not been followed, a decision denying access will be sent to the requesting individual stating the reasons for denial and the right to an administrative appeal under § 703.10.

**§ 703.8 Request for correction or amendment.**

Any individual who has reviewed a record pertaining to that individual may file with the Assistant Director a written request to correct or amend all or any part of the record. The request should specify:

- (a) The individual requesting the correction or amendment;
- (b) The particular record and the system or records in which the record is maintained;
- (c) The specific wording of the correction or amendment sought; and
- (d) The basis for the request, including the submission of material to substantiate the proposed correction or amendment.

**§ 703.9 Review of request for correction or amendment.**

(a) Not later than ten business days after receipt of a request for correction or amendment, the Assistant Director will acknowledge receipt of the request and inform the individual whether further information is required before the request for correction or amendment can be decided.

(b) When all information is provided, the Assistant Director will make each requested correction or amendment to a record if such action will correct a record that is not accurate or complete. A copy of each corrected or amended record will be furnished to the individual who requested the action. To the extent feasible, previous recipients of the record will be notified of the amendment or correction.

(c) If the request for correction or amendment is denied, notice will be sent to the requesting individual stating the reasons for denial and the right to an administrative appeal under § 703.10.

**§ 703.10 Appeal of initial denial of access, correction, or amendment.**

(a) Any individual whose request for access, correction or amendment of a record is denied, in whole or in part, may within 30 business days file a written appeal with the Director of the Council. The appeal should specify:

(1) The individual making the appeal, the date of the initial request, and the date of the initial decision;

(2) The record to which access is sought or which is sought to be corrected or amended;

(3) The record system in which the record is contained; and

(4) The correction or amendment sought.

(b) Not later than 30 business days after receipt of an appeal, the Director will make a final decision. For good cause the Director may extend the 30-day period by promptly notifying the requesting individual that an extension has been made.

(c) If the appeal is granted, the Director will promptly notify the requesting individual that he or she may have access to the requested record or that the requested correction or amendment will be made. To the extent feasible, previous recipients of the record will be notified of the amendment or correction.

(d) If the Director refuses to grant access to the record, or declines to amend the record, the Director will so notify the requesting individual. The notice will be in writing and state the reasons for the decision, the right of judicial review and, if appropriate, the procedures for filing a Statement of Disagreement under § 703.11.

#### § 703.11 Statement of Disagreement.

Upon denial of a request to amend or correct a record, the requesting individual may submit to the Director a concise statement setting forth the reasons for disagreement with the denial. A copy of this Statement of Disagreement will be filed with the contested record, and that record will be marked to indicate that there is a disagreement. The Assistant Director will, to the extent feasible, send or make available the Statement of Disagreement to any past or future recipients of the disputed record, together with a brief statement of the reasons for denying the requested correction or amendment.

#### § 703.12 Disclosure Docket.

(a) The Assistant Director will maintain a Disclosure Docket in which there will be recorded each instance that a record is made available except when a disclosure is:

(1) To members, officers or employees of or authorized consultants to the Council who need to review the records in the performance of their official duties; or

(2) Pursuant to the Freedom of Information Act (5 U.S.C. 552).

(b) The Disclosure Docket will contain:

(1) A brief description of the disclosure;

(2) The date, nature and purpose of the disclosure; and

(3) The name and address of the person or agency to whom the disclosure was made.

(c) An individual may have access to any information maintained on the Disclosure Docket in accordance with the procedures specified in this part, except for disclosure relating to law enforcement purposes made under 5 U.S.C. 552a(b)(7).

#### § 703.13 Fees.

The Council will not charge an individual for the cost of searching for, copying, correcting, or amending a record.

#### § 703.14 Penalties.

Any person who makes a false statement in connection with any request for a record, or an amendment thereto, is subject to the penalties prescribed in 18 U.S.C. 494, 495, and 1001; and 5 U.S.C. 552a(i)(3).

### PART 704—FACTFINDING PROCEDURES

#### Subpart A—General

704.1 Purpose and scope.

704.2 Definitions.

704.3 Notification of purpose.

#### Subpart B—Investigations

704.10 Investigational policy.

704.11 Council investigations.

#### Subpart C—Data From Other Agencies

704.20 Collecting Data From Other Agencies.

#### Subpart D—Subpoenas and Orders

704.30 Subpoenas for testimony and/or documents.

704.31 Orders requiring submission of periodic reports.

704.32 Service of subpoenas or orders.

704.33 Time for compliance and extensions of time.

704.34 Satisfactory compliance and certification.

704.35 Procedures for objections.

704.36 Noncompliance with subpoena or order.

#### Subpart E—Investigatory Hearings

704.40 General.

704.41 Procedure for hearings.

704.42 Rights of witnesses at hearings.

Authority.—Council on Wage and Price Stability Act, as amended, 12 U.S.C. 1904, note.

#### Subpart A—General

##### § 704.1 Purpose and scope.

This part establishes the Council's procedures for conducting factual investigations, including (a) requesting

data from other agencies; (b) issuing subpoenas for testimony and/or documents; (c) ordering the submission of periodic reports; and (d) conducting hearings.

##### § 704.2 Definitions.

(a) "Documents" means all informational material, including but not limited to correspondence, memoranda, minutes of meetings, financial records, books, financial statements, purchase journals, working papers, drafts, computer output data, and data stored in electronic form.

(b) "Entity" means any person, company as defined in Subpart 705D of this chapter, labor organization, charitable organization, or educational institution.

(c) "Presiding Officer" means any person properly authorized to preside at hearings under Subpart E of this part.

##### § 704.3 Notification of purpose.

Subpoenas for testimony and/or documents, orders requiring periodic reports, and notices of hearings issued under this part will state the purpose of the Council's action.

#### Subpart B—Investigations

##### § 704.10 Investigational policy.

The Council will monitor compliance with the voluntary pay and price standards and conduct investigations of inflationary activities in both the public and private sectors of the economy. In these monitoring and investigatory activities, the Council encourages voluntary submission of data requested by the Council. When and if necessary to obtain relevant information, the Council will use the compulsory processes authorized by the Council on Wage and Price Stability Act.

##### § 704.11 Council investigations.

From time to time, the Council will conduct investigations into the economy generally, various sectors of the economy, specific industries, or particular entities relating to:

(a) Compliance with the voluntary pay and price standards;

(b) Industrial capacity, demand, supply, and the effects of economic concentration and anticompetitive practices on various sectors of the economy;

(c) Wage and price data bases for the various sectors of the economy;

(d) Productivity trends in both the public and private sectors of the economy, and the factors affecting such trends; and

(e) The effects on the economy of: (1) Participation of the United States in international trade and commerce, (2)

changing patterns of supplies and prices of commodities in the world market, (3) investment of United States capital in foreign countries, (4) short and long term weather changes, (5) interest rates, (6) capital formation, and (7) changing patterns of world energy supplies.

#### Subpart C—Data From Other Agencies

##### § 704.20 Collecting data from other agencies.

(a) The Chairman or Director of the Council may request data pertaining to the economy from any department or agency of the United States, and any State or local government agency or department that collects, generates, or otherwise prepares or maintains such data.

(b) Any Council request for data from another governmental department or agency will be addressed to the head of the agency or to any other appropriate official of the agency. The time and manner of an agency's response to a Council request for data will be determined after consultation with the appropriate official of that agency.

#### Subpart D—Subpoenas and Orders

##### § 704.30 Subpoenas for testimony and/or documents.

(a) The Council may issue subpoenas for the attendance and testimony of witnesses at hearings and/or the delivery of relevant books, papers, or other documents relating to wages, costs, productivity, prices, sales, profits, imports and exports, and other aspects of business operations, by product line or by such other categories as the Council may prescribe.

(b) Subpoenas may be issued to any entity that, during its most recently completed fiscal year, had gross revenues from all sources in excess of \$5,000,000.

(c) Subpoenas will be signed by the Chairman or Director of the Council, state the action required, and specify the time for compliance.

##### § 704.31 Orders requiring submission of periodic reports.

(a) The Council may order submission of periodic reports from entities based on information maintained in the ordinary course of business relating to wages, costs, productivity, prices, sales, profits, imports, exports, and other aspects of business operations, by product line or by such other categories as the Council may prescribe. Periodic reports include single as well as multiple requests for specific information from individual entities or standard-form submissions (such as PM-1 and PAY-1) and related schedules. Periodic reports

also include supporting documents relating to a particular submission.

(b) Orders requiring submission of periodic reports will be signed by the Chairman or Director of the Council, state the action required, and specify the time for compliance.

##### § 704.32 Service of subpoenas or orders.

(a) Subpoenas and orders may be served by registered or certified mail addressed to the entity at its principal office or place of business. Service is complete on delivery. A return receipt will be proof of service by mail.

(b) Subpoenas and orders may also be served by personal delivery either to an individual authorized to accept service for the entity or by delivery to the principal office or place of business of the entity. Service is complete upon delivery. A certificate of service by the server is proof of service.

##### § 704.33 Time for compliance and extensions of time.

(a) Subpoenas and orders are returnable within 20 business days after service or at such other time as the Chairman or Director of the Council may determine. If the return date is less than 20 business days, the reasons will be explained in the subpoena or order or accompanying letter.

(b) The General Counsel may approve amendment or modifications to the terms of a subpoena or order and, for good cause, may extend the time for compliance.

##### § 704.34 Satisfactory compliance and certification.

(a) Compliance with a subpoena for testimony means appearing in person at the specified time and place and providing testimony under oath.

(b) Compliance with a subpoena for documents means delivery of the specified documents to the Office of General Counsel during regular business hours. All responses to a subpoena for documents should be accompanied by a certification of an authorized representative of the responding entity that he has examined the documents and, to the best of his information, knowledge, and belief all documents responding to the subpoena have been provided.

(c) Compliance with an order requiring submission of periodic reports means delivery of the completed periodic reports to the Office of General Counsel during regular business hours. All responses to an order should be accompanied by a certification of an authorized representative of the responding entity that he has examined the statements contained in the

completed periodic report and that all such statements are true and correct to the best of his information, knowledge, and belief.

##### § 704.35 Procedures for objections.

(a) An entity served with a subpoena or order may file a Notice of Objection with the Director of the Council within ten business days after service or, if the return date is less than ten business days, at any time prior to the return date. A timely objection will stay the return date only as to the challenged portions of the subpoena or order.

(b) Objections to a subpoena or order should identify the challenged portions, state the factual and legal basis for each objection, and indicate the relief requested.

(c) An entity objecting to a subpoena on the ground that it does not have annual gross revenues from all sources in excess of \$5,000,000 should submit proof by affidavit.

(d) Within 20 business days after the receipt of an objection, the Director will notify the objecting entity of the decision regarding the objection and the reasons therefor. If appropriate, the Director will specify a new return date.

##### § 704.36 Noncompliance with subpoena or order.

The Director may request the Attorney General to initiate an enforcement proceeding in a United States District Court against any entity that fails to comply with a subpoena or order issued by the Council.

#### Subpart E—Investigatory Hearings

##### § 704.40 General.

(a) The Council may conduct investigatory hearings for the purposes of hearing testimony from witnesses and receiving documents and other data relating to the Council's monitoring and investigatory activities.

(b) The Chairman, Director, or any Member of the Council may preside at investigatory hearings or delegate such responsibilities to an employee of the Council or other person designated to be a Presiding Officer.

##### § 704.41 Procedure for hearings.

(a) Matters to be heard will be set forth in a Notice of Hearing. The Notice of Hearing will be published in the Federal Register reasonably in advance of the hearing date. To the extent possible, the Council will send copies of the Notice to persons or entities that have a direct and primary interest in the matters to be heard.

(b) Upon written request by an interested person or the Presiding Officer, the Chairman or Director may

subpoena the attendance and testimony of witnesses and the production of relevant books, papers, and other documents as provided in this part.

(c) The Chairman, Director, or any Member of the Council is authorized to administer oaths or delegate such authority to the Presiding Officer.

(d) The Presiding Officer will regulate the presentation of testimony and documentary evidence, dispose of procedural requests, and may for good cause strike or limit the presentation of irrelevant, immaterial, or unduly repetitious evidence.

(e) Hearings will be open to the public except by order of the Presiding Officer for any ground listed in 5 U.S.C. 552b(c).

**§ 704.42 Rights of witnesses at hearings.**

(a) Witnesses subpoenaed to hearings will be paid the same fees and mileage as are paid to witnesses in United States District Courts.

(b) Upon payment of lawfully prescribed costs, any person who testifies or appears at a hearing may obtain a copy of his or her testimony if it is transcribed stenographically or recorded electronically.

(c) Any person who testifies at a hearing may be represented by counsel.

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Wednesday  
December 5, 1979

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**Part V**

**Office of  
Management and  
Budget**

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**Indirect Cost Rates, Audit, and Audit  
Followup at Educational Institutions**

## OFFICE OF MANAGEMENT AND BUDGET

[Circular No. A-88, Revised]

### Indirect Cost Rates, Audit, and Audit Followup at Educational Institutions

November 27, 1979.

To the Heads of Executive Departments and Establishments:

1. *Purpose.* This Circular provides policies for (a) establishing indirect cost rates, (b) auditing, (c) correcting systems deficiencies, and (d) resolving questioned costs. It applies to Federal grants, contracts, and other agreements with educational institutions (referred to here as "sponsored agreements"). The objectives are to promote a coordinated Federal approach, and to achieve a more effective use of staff resources.

2. *Supersession.* This Circular supersedes Federal Management Circular 73-6, dated December 19, 1973. FMC 73-6 is revised and reissued under its original designation of Circular No. A-88.

3. *Applicability.* This Circular applies to all Federal agencies that administer sponsored agreements with educational institutions subject to Circular No. A-21, "Cost principles for educational institutions," and Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations."

#### 4. Policies.

a. *Negotiating indirect cost rates.* One Federal agency will negotiate the indirect cost rate or rates at a single institution. This agency is referred to here as the "cognizant agency." Negotiations will be carried out in accordance with relevant provisions of law and other applicable regulations or requirements.

b. *Negotiating special rates.* Institutional services involving the use of highly complex and specialized facilities may in some cases require the negotiation of special rates. In these situations, the cognizant agency will also do the negotiating for all Federal agencies at a single institution.

c. *Acceptance of rates.* The negotiated rates will be accepted by all Federal agencies.

d. *Auditing.* The cognizant agency will do all the necessary Federal auditing at a single institution. Agencies that have special considerations affecting their sponsored agreements will inform the cognizant agency so that appropriate attention may be given to them in developing the audit program. Results of the audit will be furnished by the cognizant agency to the other organizations concerned.

e. *Correcting deficiencies.* The cognizant agency will negotiate changes needed to correct systems deficiencies relating to accountability for sponsored agreements. The cognizant agency will seek the views of other affected agencies before entering into negotiations and invite their participation.

f. *Resolving questioned costs.* The cognizant agency will conduct any necessary negotiations with the institution regarding amounts due the government as a result of costs questioned by audit. Prior to reaching final agreement with an institution, the cognizant agency will seek the views of other agencies concerned.

g. *Agency assignments.* Federal agency assignments for carrying out the responsibilities in this section are set forth in the Attachment. Government-owned facilities at educational institutions are not included in the cognizance assignments. These will remain the responsibility of the contracting agencies. The listed assignments cover all of the functions in this section unless otherwise indicated. The Office of Management and Budget will coordinate changes in agency assignments.

h. *Reimbursement.* Reimbursement to cognizant agencies for work performed under this Circular may be made by reimbursement billing under section 601, Economy Act of 1932, 31 U.S.C. 686.

#### 5. Administering indirect cost policies.

a. *Procedure for establishing indirect cost rates.* The cognizant agency will arrange with the institution to provide copies of indirect cost proposals to all interested agencies. Agencies wanting such copies should notify the cognizant agency. Indirect cost rates will be established by one of the following methods:

(1) *Formal negotiation.* The cognizant agency will advise all interested agencies of its intention to negotiate, and schedule a prenegotiation conference, if necessary. The cognizant agency will then arrange a negotiation conference with the institution. If an agency does not wish to be represented in these meetings, the cognizant agency will represent that agency.

(2) *Other than formal negotiation.* This will include cases where the institution and cognizant agency determine that agreement can be reached without a formal negotiation conference; for example, through correspondence or use of the simplified method described in Circular No. A-21.

b. *Special considerations affecting negotiation.* An agency which has reason to believe that special operating factors affecting its sponsored

agreements necessitate separate rates will, prior to the time an agreement is negotiated, notify the cognizant agency and the institution so that appropriate attention may be devoted to those factors. Circular No. A-21 provides for separate indirect cost rates when it is determined that a separate rate differs significantly from a single rate, and that the volume of work to which such separate rate would apply is material in relation to other sponsored agreements at the institution.

c. *Formalizing determinations and agreements.* The cognizant agency will formalize all determinations or agreements reached with the institution and provide copies to other agencies having an interest.

6. *Disputes and disagreements.* Where the cognizant agency is unable to reach agreement with an institution with regard to indirect cost rates or audit resolution, the appeals system of the cognizant agency will be followed for resolution of the disagreement.

7. *Effective date.* The provisions of this Circular shall be effective January 1, 1980.

8. *Inquiries.* Further information concerning this Circular may be obtained by contacting the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395-6823.

James T. McIntyre, Jr.,  
Director.

OFFICE OF MANAGEMENT AND BUDGET  
Circular A-88 (Revised), "Indirect Cost Rates, Audit, and Audit Followup at Educational Institutions"

AGENCY: Office of Management and Budget.  
ACTION: Final Policy.

SUMMARY: This notice advises that Federal Management Circular 73-6, dated December 19, 1973, has been revised and reissued under its original designation of Office of Management and Budget Circular A-88.

The revision continues the existing policy of relying on a single agency to act for all agencies in auditing educational institutions and in negotiating their indirect cost rates. It adds to those duties the responsibility to follow up on audits by:

—assuring correction of systems deficiencies.

—negotiating appropriate resolution on questioned costs.

Both these functions will be carried out in close coordination with other affected agencies.

The revision is based in part on recommendations made by an interagency task force. Its purpose is to enhance accountability for Federal funds, and to ease the administrative burden on universities by assuring that they will not have to negotiate separately with several Federal agencies on the same matter. It strengthens the "cognizant agency" concept.



Upon request, all regulations and instructions implementing this Circular shall be furnished to the Office of Management and Budget.

**EFFECTIVE DATE:** This revision is effective January 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** John J. Lordan, Chief, Financial Management Branch, Office of Management and Budget, Washington, D.C. 20503 (202) 395-3993.

**SUPPLEMENTARY INFORMATION:** On July 18, 1979, a notice was published in the Federal Register (44 FR 42114-24) to amend Circular A-88. Interested persons were invited to submit written comments. About 30 comments were received from Federal agencies, colleges and universities, professional associations and others. The comments were considered in developing these final regulations.

Although almost all commenters agreed with the cognizant agency concept for audit and rate determinations, some commenters questioned extending the concept to include resolution of audit findings or made suggestions for clarifying changes. The more significant comments received, and OMB's responses to them are discussed below.

#### Changes in Final Regulation

Set forth below are changes that have been adopted in the final regulations. The paragraphs are keyed to the proposed regulations published on July 18, 1979.

1. Paragraph 3. A reference to Circular A-110, "Uniform requirements for grants to universities, hospitals, and nonprofit organizations," was added for clarity.

2. Paragraph 4d was amended to differentiate between Federal audits under this Circular and the institutions' audits required under Circular A-110.

3. Paragraph 4e and 4f. The phrase "seek the views of" was added to clarify the cognizant agency's responsibility to other Federal agencies.

4. Paragraph 5a(1). Changes were made to clarify the responsibility of the cognizant agency.

5. Paragraph 5d was renumbered paragraph 6 and revised to cover all disputes and disagreements with institutions arising from the cognizant agency's determinations on indirect cost rates and audit resolution. It was also changed to provide for the cognizant agency's appeals system to be used for resolving disputes and disagreements.

6. Paragraph 6 was renumbered paragraph 7, and January 1, 1980, was inserted as the effective date.

#### Suggested Changes Not Considered Necessary

**COMMENT.** One commenter sought changes to the Circular defining special situations which might arise when the cognizant agency would not be able to accommodate special requests from other Federal agencies. Such situations usually involve requests for special

rates or an audit of one grant or contract at an institution.

**RESPONSE.** It is an established practice that when a cognizant agency is unable to provide a special service to another Federal agency, the cognizant agency permits the other Federal agency to undertake the task. This delegation action may also be used by the cognizant agency in the audit resolution process where only one Federal agency or one grant or contract is involved in an audit finding.

**COMMENT.** Some commenters questioned whether the cognizant agency would impinge on the authority of contracting officers in carrying out its responsibilities, especially in the audit resolution process.

**RESPONSE.** We do not believe there is an inconsistency between the role of the contracting officer and the Circular's provisions. The cognizant agency will seek the views of the affected agencies before attempting to negotiate on their behalf. Contracting officers will be free to participate to the extent deemed appropriate. We believe it is imperative that the Government develop a uniform position with regard to audit findings that are common to awards made by more than one agency.

**COMMENT.** Commenters raised some procedural issues dealing with disposition of collections, applicability of the Circular to prior awards, etc.

**RESPONSE.** OMB will work with the affected agencies to establish procedures for implementing the Circular.

John J. Lordan,

Chief, Financial Management Branch.

#### Attachment—Cognizance Assignments

##### Alabama

Ala Agr and Mech Col—HEW  
Ala Christian Col—HEW  
Ala Col—HEW  
Ala St Col—HEW  
Alexander City St Jr Col—HEW  
Auburn Univ—HEW  
Birmingham-Southern Col—HEW  
Calhoun St Tech Jr Col—HEW  
Daniel Payne Col—HEW  
Enterprise Jr Col—HEW  
Florence St Col—HEW  
Gadsden Tech Jr Col—HEW  
George C Wallace Jr Col—HEW  
Huntington Col—HEW  
Jacksonville St Col—HEW  
Jefferson Davis Col—HEW  
Jefferson St Jr Col—HEW  
Livingston St Col—HEW  
Miles Col—HEW  
Mobile St Jr Col—HEW  
Northeast St Jr Col—HEW  
Northwest Ala St Jr Col—HEW  
Oakwood Col—HEW  
Patrick Henry Jr Col—HEW  
Sacred Heart Col—HEW

Southern Union St Jr Col—HEW  
Spring Hill Col—HEW  
St Bernard Col—HEW  
Stillman Col—HEW  
Talladega Col—HEW  
Troy St Col—HEW  
Tuskegee Inst—HEW  
Univ of Ala—HEW  
Univ of South Ala—HEW  
Wenonah Jr Col—HEW  
William Yancey St Jr Col—HEW

##### Alaska

Alaska Methodist Univ—HEW  
Sheldon Jackson Jr Col—HEW  
Univ of Alaska—DOD

##### Arizona

Amer Inst Foreign Trade—HEW  
Ariz St Univ—HEW  
Ariz Western Col—HEW  
Cochise Col—HEW  
Eastern Ariz Jr Col—HEW  
Glendale Comm Col—HEW  
Grand Canyon Col—HEW  
Mesa Comm Col—HEW  
Northern Ariz Univ—HEW  
Phoenix Col—HEW  
Pima Comm Col—HEW  
Prescott Col—HEW  
Univ of Ariz—HEW

##### Arkansas

Ark Agr and Mech Col—HEW  
Ark Agr Mech & Normal Col—HEW  
Ark Baptist Col—HEW  
Ark Col—HEW  
Ark Polytechnic Col—HEW  
Ark St Col—HEW  
Ark Art Center—HEW  
Col of the Ozarks—HEW  
Crowley's Ridge Col—HEW  
Harding Col—HEW  
Henderson St Tchrs Col—HEW  
Hendrix Col—HEW  
John Brown Univ—HEW  
Little Rock Univ—HEW  
Ouachita Baptist Univ—HEW  
Philander Smith Col—HEW  
Phillips Cnty Comm Jr Col—HEW  
Shorter Jr Col—HEW  
Southern Baptist Col—HEW  
Southern St Col—HEW  
State College of Ark—HEW  
Univ of Ark—HEW  
Westark Jr Col—HEW

##### California

Allan Hancock Col—HEW  
Amer River Jr Col—HEW  
Antelope Valley Col—HEW  
Azusa Pacific Col—HEW  
Bakersfield Col—HEW  
Barstow Col—HEW  
Bethany Bible Col—HEW  
Biola Col—HEW  
Cabrillo Col—HEW  
Cal Col of Arts & Crafts—HEW  
Cal Col of Medicine—HEW  
Cal Inst of Tech—DOD  
Cal Inst of the Arts—HEW  
Cal Lutheran Col—HEW  
Cal Podiatry Col—HEW  
Cal St Colleges & Universities (all campuses)—HEW  
Cerritos Col—HEW  
Chabot Col—HEW

Chaffey Col—HEW  
 Chapman Col—HEW  
 Chico State Col—HEW  
 City Col of San Francisco Col—HEW  
 Claremont Graduate School—HEW  
 Claremont Mens Col—HEW  
 Coalinga Col—HEW  
 Col of Marin—HEW  
 Col of Notre Dame—HEW  
 Col of San Mateo—HEW  
 Col of the Desert—HEW  
 Col of the Holy Names—HEW  
 Col of the Redwoods—HEW  
 Col of the Sequoias—HEW  
 Col of the Siskiyous—HEW  
 Compton Col—HEW  
 Contra Costa Col—HEW  
 Ctr for Early Education—HEW  
 Cuesta Col—HEW  
 Cypress Jr Col—HEW  
 De Anza Col—HEW  
 Deep Springs Col—HEW  
 Diablo Valley Col—HEW  
 Dominican Col San Rafael—HEW  
 East Los Angeles Col—HEW  
 El Camino Col—HEW  
 Foothill Col—HEW  
 Fullerton Jr Col—HEW  
 Gavilan Col—HEW  
 Glendale Col—HEW  
 Golden Gate Col—HEW  
 Golden West Col—HEW  
 Grossmont Col—HEW  
 Hartnell Col—HEW  
 Harvey Mudd Col—HEW  
 Humphreys Col—HEW  
 Immaculate Heart Col—HEW  
 Imperial Valley Col—HEW  
 La Sierra Col—HEW  
 La Verne Col—HEW  
 Laney Col—HEW  
 Lassen Col—HEW  
 Loma Linda Univ—HEW  
 Long Beach City Col—HEW  
 Los Angeles City Col—HEW  
 Los Angeles Col of Optom—HEW  
 Los Angeles Harbor Col—HEW  
 Los Angeles Pierce Col—HEW  
 Los Angeles Tr-Tech Col—HEW  
 Los Angeles Valley Col—HEW  
 Loyola Univ Los Angeles—HEW  
 Marymount Col—HEW  
 Menlo Col—HEW  
 Merced Col—HEW  
 Merritt Col—HEW  
 Mills Col—HEW  
 Mira Costa Col—HEW  
 Modesto Jr Col—HEW  
 Monterey Inst of For Study—HEW  
 Monterey Peninsula Col—HEW  
 Mount San Antonio Jr Col—HEW  
 Mount San Jacinto Col—HEW  
 Mt St Marys Col—HEW  
 Napa Jr Col—HEW  
 Northrop Inst of Tech—HEW  
 Occidental Col—HEW  
 Orange Coast Col—HEW  
 Otis Art Inst LA Cnty—HEW  
 Pacific Col—HEW  
 Pacific Oaks Col—HEW  
 Pacific Union Col—HEW  
 Palo Verde Col—HEW  
 Palomar Jr Col—HEW  
 Pasadena City Col—HEW  
 Point Loma Col—HEW  
 Pepperdine Col—HEW

Peralta Jr Col Dist—HEW  
 Pitzer Col—HEW  
 Pomona Col—HEW  
 Porterville Col—HEW  
 Reedley Col—HEW  
 Rio Hondo Jr Col—HEW  
 Riverside City Col—HEW  
 S Cnty Joint Jr Col Dist—HEW  
 Sacramento City Col—HEW  
 Salk Inst for Biol Study—HEW  
 San Bernardino Vly Jr Col—HEW  
 San Diego City Col—HEW  
 San Diego Jr Col—HEW  
 San Diego Mesa Col—HEW  
 San Francisco Art Inst—HEW  
 San Francisco Col Women—HEW  
 San Francisco Conserv Music—HEW  
 San Joaquin Delta Col—HEW  
 San Jose City Col—HEW  
 Santa Barbara City Col—HEW  
 Santa Monica City Col—HEW  
 Santa Rosa Jr Col—HEW  
 Scripps Col—HEW  
 Shasta Col—HEW  
 Sierra Col—HEW  
 Simpson Bible Col—HEW  
 Solano Col—HEW  
 Southern Cal Col—HEW  
 Southwestern Col—HEW  
 St Josephs Col of Orange—HEW  
 St Marys Col Cal—HEW  
 Stanford Univ—DOD  
 St Ctr Jr Col Dist—HEW  
 Taft Col—HEW  
 U S International Univ—HEW  
 Univ of California—HEW  
 Univ of Redlands—HEW  
 Univ of San Diego—HEW  
 Univ of San Francisco—HEW  
 Univ of Santa Clara—HEW  
 Univ of Southern Cal—HEW  
 Univ of the Pacific—HEW  
 Ventura Col—HEW  
 Victor Valley Col—HEW  
 West Valley Col—HEW  
 West Valley Col—HEW  
 Westmont Col—HEW  
 Whittier Col—HEW  
 Yuba Col—HEW

#### Colorado

Adams State Col—HEW  
 Arapahoe Jr Col—HEW  
 Colorado Col—HEW  
 Colorado Sch of Mines—DOD  
 Colorado St Col—HEW  
 Colorado St Univ—HEW  
 Fort Lewis Col—HEW  
 Iliff Sch of Theology—HEW  
 Lamar Jr Col—HEW  
 Loretto heights Col—HEW  
 Mesa Col—HEW  
 Metropolitan St Col—HEW  
 Northeastern Jr Col—HEW  
 Otero Jr Col—HEW  
 Rangely Col—HEW  
 Regis Col—HEW  
 Southern Colorado St Col—HEW  
 Temple Buell Col—HEW  
 Trinidad State Jr Col—HEW  
 U S Air Force Academy—HEW  
 Univ of Colorado—HEW  
 Univ of Denver—DOD  
 Western St Col Colorado—HEW  
 Yampa Valley Col—HEW

#### Connecticut

Albertus Magnus Col—HEW  
 Annhurst Col—HEW  
 Bridgeport Eng Inst—HEW  
 Central Conn St Col—HEW  
 Connecticut Col—HEW  
 Diocesan Sisters Col—HEW  
 Eastern Conn State Col—HEW  
 Fairfield Univ—HEW  
 Hartford Col for Women—HEW  
 Hartford Sen Found—HEW  
 Manchester Comm Col—HEW  
 Mitchell Col—HEW  
 New Haven Col—HEW  
 Northwestn Conn Comm Col—HEW  
 Norwalk Comm Col—HEW  
 Post Jr Col—HEW  
 Quinnipiac Col—HEW  
 Sacred Heart Univ—HEW  
 Southern Conn St Col—HEW  
 St Joseph Col—HEW  
 Trinity Col—HEW  
 Univ of Bridgeport—HEW  
 Univ of Connecticut—HEW  
 Univ of Hartford—HEW  
 Waterbury St Tech Inst—HEW  
 Wesleyan Univ—HEW  
 Western Conn St Col—HEW  
 Yale Univ—HEW

#### Delaware

Delaware St Col—HEW  
 Univ of Delaware—HEW  
 Wesley Col—HEW

#### District of Columbia

American Univ—HEW  
 Capitol Inst of Tech—HEW  
 Catholic Univ of Amer—HEW  
 Dist of Col Tchrs Col—HEW  
 Dunbarton Col Holy Cross—HEW  
 Gallaudet Col—HEW  
 George Washington Univ—HEW  
 Georgetown Univ—HEW  
 Howard Univ—HEW  
 Immaculate Col of Wash—HEW  
 Mt Vernon Jr Col—HEW  
 Southeastern Univ—HEW  
 Trinity Col—HEW  
 Wash Sch of Psychiatry—HEW  
 Nat'l Academy of Sciences—DOD

#### Florida

Alachua County Jr Col—HEW  
 Barry Col—HEW  
 Bethune-Cookman Col—HEW  
 Biscayne Col—HEW  
 Brevard Jr Col—HEW  
 Central Florida Jr Col—HEW  
 Chipola Jr Col—HEW  
 Daytona Beach Jr Col—HEW  
 Edison Jr Col—HEW  
 Edwards Waters Col—HEW  
 Embry-Riddle Aero Inst—HEW  
 Florida Agr & Mech Univ—HEW  
 Florida Atlantic Univ—HEW  
 Florida Inst of Tech—HEW  
 Florida Jr Col—HEW  
 Florida Keys Jr Col—HEW  
 Florida Memorial Col—HEW  
 Florida Presbyterian Col—HEW  
 Florida Southern Col—HEW  
 Florida State Univ—HEW  
 Florida Technological Univ—HEW  
 Gulf Coast Jr Col—HEW  
 Indian River Jr Col—HEW

Jacksonville Univ—HEW  
 Jones Col—HEW  
 Jr Col of Broward County—HEW  
 Lake City Jr Col—HEW  
 Lake-Sumter Jr Col—HEW  
 Manatee Jr Col—HEW  
 Marymount Col—HEW  
 Miami-Dade Jr Col—HEW  
 New Col—HEW  
 North Florida Jr Col—HEW  
 Nova Univ of Adv Tech—HEW  
 Okaloosa-Walton Jr Col—HEW  
 Orlando Jr Col—HEW  
 Palm Beach Jr Col—HEW  
 Pensacola Jr Col—HEW  
 Polk Jr Col—HEW  
 Rolins Col—HEW  
 Santa Fe Jr Col—HEW  
 Seminole Jr Col—HEW  
 South Florida Jr Col—HEW  
 South-Eastern Bible Col—HEW  
 St Johns River Jr Col—HEW  
 St Joseph Col of Florida—HEW  
 St Leo Col—HEW  
 St Petersburg Jr Col—HEW  
 Stetson Univ—HEW  
 Tallahassee Jr Col—HEW  
 Univ of Florida—HEW  
 Univ of Miami—HEW  
 Univ of South Florida—HEW  
 Univ of Tampa—HEW  
 Univ of West Florida—HEW

#### Georgia

Abraham Baldwin Agr Col—HEW  
 Agnes Scott Col—HEW  
 Albany Jr Col—HEW  
 Albany State Col—HEW  
 Andrew Col—HEW  
 Armstrong St Col—HEW  
 Atlanta Sch of Art—HEW  
 Atlanta Univ—HEW  
 Augusta Col—HEW  
 Berry Col—HEW  
 Brewton-Parker Col—HEW  
 Brunswick Jr Col—HEW  
 Clark Col—HEW  
 Columbus Col—HEW  
 Dalton Jr Col—HEW  
 DeKalb Col—HEW  
 Emmanuel Col—HEW  
 Emory Univ—HEW  
 Fort Valley St Col—HEW  
 Gainesville Jr Col—HEW  
 Georgia Inst of Tech—DOD  
 Georgia Military Col—HEW  
 Georgia Southern Col—HEW  
 Georgia Southwestern Col—HEW  
 Georgia State Col—HEW  
 John Marshall Univ—HEW  
 Kennesaw Jr Col—HEW  
 LaGrange Col—HEW  
 Medical Col of Georgia—HEW  
 Mercer Univ—HEW  
 Middle Georgia Col—HEW  
 Morehouse Col—HEW  
 Morris Brown Col—HEW  
 Norman Col—HEW  
 North Georgia Col—HEW  
 Oglethorpe Col—HEW  
 Paine Col—HEW  
 Piedmont Col—HEW  
 Reinhardt Col—HEW  
 Savannah St Col—HEW  
 Shorter Col—HEW  
 South Georgia Col—HEW

Southern Col of Pharmacy—HEW  
 Spelman Col—HEW  
 Tift Col—HEW  
 Univ of Georgia—HEW  
 Valdosta St Col—HEW  
 Wesleyan Col—HEW  
 West Georgia Col—HEW  
 Womens Col of Georgia—HEW  
 Young Harris Col—HEW

#### Hawaii

Chaminade Col of Honolulu—HEW  
 Hawaii Loa College—HEW  
 Univ of Hawaii—DOD

#### Idaho

Boise Col—HEW  
 Col of Idaho—HEW  
 Col of Southern Idaho—HEW  
 Idaho St Univ—HEW  
 Lewis Clark Normal School—HEW  
 Magic Vly Christian Col—HEW  
 Northwest Nazarene Col—HEW  
 Univ of Idaho—HEW

#### Illinois

Augustana Col—HEW  
 Aurora Col—HEW  
 Barat Col of Sacred Heart—HEW  
 Belleville Jr Col—HEW  
 Black Hawk Col—HEW  
 Blackburn Col—HEW  
 Bloom Comm Col—HEW  
 Bradley Univ—HEW  
 Canton Comm Col—HEW  
 Central YMCA Comm Col—HEW  
 Chicago City Jr Col—HEW  
 Chicago Col of Osteopathy—HEW  
 Chicago Medical School—HEW  
 Chicago-Kent Col of Law—HEW  
 Col of Dupage—HEW  
 Col of St Francis—HEW  
 Columbia Col—HEW  
 Concordia Tchrs Col—HEW  
 Danville Jr Col—HEW  
 DePaul Univ—HEW  
 Eastern Illinois Univ—HEW  
 Elgin Comm Col—HEW  
 Elmhurst Col—HEW  
 Eureka Col—HEW  
 Freeport Comm Col—HEW  
 George Williams Col—HEW  
 Greenville Col—HEW  
 Hebrew Theol Col—HEW  
 Illinois Col—HEW  
 Illinois Col of Optometry—HEW  
 Illinois Col of Podiatry—HEW  
 Illinois Inst of Tech—HEW  
 Illinois St Col—HEW  
 Illinois St Univ—HEW  
 Illinois Wesleyan Univ—HEW  
 Joliet Jr Col—HEW  
 Judson Col—HEW  
 Kaskaskia Col—HEW  
 Kendall Col—HEW  
 Knox Col—HEW  
 LaSalle-Peru-Oglesby Jr Col—HEW  
 Lake Forest Col—HEW  
 Lewis Col—HEW  
 Lincoln Col—HEW  
 Loyola Univ—HEW  
 MacCormac Col—HEW  
 MacMurray Col—HEW  
 McKendree Col—HEW  
 Millikin Univ—HEW  
 Monmouth Col—HEW  
 Monticello Col—HEW

Mount Vernon Comm Col—HEW  
 Mundelein Col—HEW  
 Nat Col of Education—HEW  
 North Central Col—HEW  
 North Park Col—HEW  
 Northern Illinois Univ—HEW  
 Northwestern Univ—HEW  
 Olivet Nazarene Col—HEW  
 Olney Comm Col—HEW  
 Principia Col—HEW  
 Quincy Col—HEW  
 Rock Valley Col—HEW  
 Rockford Col—HEW  
 Roosevelt Univ—HEW  
 Rosary Col—HEW  
 Sauk Valley Col—HEW  
 Schools of the Art Inst—HEW  
 Shimer Col—HEW  
 Southern Illinois Univ—HEW  
 Springfield Jr Col—HEW  
 St Dominic Col—HEW  
 St Procopius Col—HEW  
 St Xavier Col—HEW  
 Thornton Jr Col—HEW  
 Trinity Christian Col—HEW  
 Trinity Col—HEW  
 Triton Col—HEW  
 Univ of Chicago—HEW  
 Univ of Illinois—DOD  
 Wabash Valley Col—HEW  
 Western Illinois Univ—HEW  
 Wheaton Col—HEW  
 William Rainey Harper Col—HEW

#### Indiana

Anderson Col—HEW  
 Ball State Univ—HEW  
 Bethel Col—HEW  
 Butler Univ—HEW  
 Concordia Senior Col—HEW  
 Depauw Univ—HEW  
 Earlham Col—HEW  
 Fort Wayne Art School—HEW  
 Franklin Col of Indiana—HEW  
 Goshen Col—HEW  
 Grace Theol Sem—HEW  
 Hanover Col—HEW  
 Herron School of Art—HEW  
 Huntington Col—HEW  
 Indiana Central Col—HEW  
 Indiana Inst of Tech—HEW  
 Indiana Northern Univ—HEW  
 Indiana St Univ—HEW  
 Indiana Univ—HEW  
 Manchester Col—HEW  
 Marian Col—HEW  
 Marion Col—HEW  
 Oakland City Col—HEW  
 Purdue Univ—HEW  
 Rose Polytechnic Inst—HEW  
 St Benedict Col—HEW  
 St Francis Col—HEW  
 St Joseph's Col—HEW  
 St Mary-of-the-Woods Col—HEW  
 St Marys Col—HEW  
 St Meinrad Sem—HEW  
 Taylor Univ—HEW  
 Tri-St Col—HEW  
 Univ of Evansville—HEW  
 Univ of Notre Dame—DOD  
 Valparaiso Univ—HEW  
 Vincennes Univ—HEW  
 Wabash Col—HEW

#### Iowa

Area X Comm Col—HEW

Briar Cliff Col—HEW  
 Buena Vista Col—HEW  
 Burlington Comm Col—HEW  
 Central Col—HEW  
 Clarinda Comm Col—HEW  
 Clarke Col—HEW  
 Clinton Jr Col—HEW  
 Coe Col—HEW  
 Col of Osteopath Med Surg—HEW  
 Cornell Col—HEW  
 Creston Comm Col—HEW  
 Ctrville Comm Col—HEW  
 Divine Word Col—HEW  
 Dordt Col—HEW  
 Drake Univ—HEW  
 Eagle Grove Jr Col—HEW  
 Ellsworth Jr Col—HEW  
 Emmetsburg Comm Col—HEW  
 Estherville Jr Col—HEW  
 Graceland Col—HEW  
 Grand View Col—HEW  
 Grinnell Col—HEW  
 Iowa Central Comm Col—HEW  
 Iowa State Univ—HEW  
 Iowa Wesleyan Col—HEW  
 Keokuk Comm Col—HEW  
 Loras Col—HEW  
 Luther Col—HEW  
 Marshalltown Comm Col—HEW  
 Marycrest Col—HEW  
 Midwestern Col—HEW  
 Morningside Col—HEW  
 Mount Mercy Col—HEW  
 Muscatine comm Col—HEW  
 North Iowa Area Comm Col—HEW  
 Northwestern Col—HEW  
 Ottumwa Heights Col—HEW  
 Palmer Jr Col—HEW  
 Parsons Col—HEW  
 Simpson Col—HEW  
 Sioux Empire Col—HEW  
 St Ambrose Col—HEW  
 Univ of Dubuque—HEW  
 Univ of Iowa—HEW  
 Univ of Northern Iowa—HEW  
 Upper Iowa Univ—HEW  
 Vennard Col—HEW  
 Waldorf Col—HEW  
 Wartburg Col—HEW  
 Webster City Jr Col—HEW  
 Westmar Col—HEW  
 William Penn Col—HEW

#### Kansas

Allen County Comm Jr Col—HEW  
 Baker Univ—HEW  
 Barton County Comm Jr Col—HEW  
 Bethany Col—HEW  
 Bethal Col—HEW  
 Central Col—HEW  
 Cloud County Comm Jr Col—HEW  
 Coffeyville Comm Jr Col—HEW  
 Col of Emporia—HEW  
 Colby Comm Jr Col—HEW  
 Cowley County Comm Jr Col—HEW  
 Dodge City Comm Jr Col—HEW  
 Donnelly Col—HEW  
 Fort Hays Kansas St Col—HEW  
 Fort Scott Comm Jr Col—HEW  
 Friends Bible Col—HEW  
 Friends Univ—HEW  
 Garden City Comm Jr Col—HEW  
 Hesston Col—HEW  
 Highland Comm Jr Col—HEW  
 Hutchinson Comm Jr Col—HEW  
 Independence Comm Jr Col—HEW

Kansas City Comm Jr Col—HEW  
 Kansas St Col—HEW  
 Kansas St Tchrs Col—HEW  
 Kansas State Univ—HEW  
 Kansas Wesleyan Univ—HEW  
 Labette Comm Jr Col—HEW  
 Marymount Col—HEW  
 McPherson Col—HEW  
 Miltonvale Wesleyan Col—HEW  
 Mount St Scholastica Col—HEW  
 Neosho County Comm Jr Col—HEW  
 Ottawa Univ—HEW  
 Pratt Comm Jr Col—HEW  
 Sacred Heart Col—HEW  
 Schilling Institute—HEW  
 Southwestern Col—HEW  
 St Benedicts Col—HEW  
 St Johns Col—HEW  
 St Mary Col—HEW  
 St Mary of the Plains Col—HEW  
 Sterling Col—HEW  
 Tabor Col—HEW  
 Univ of Kansas—HEW  
 Washburn Univ of Topeka—HEW  
 Wichita St Univ—HEW

#### Kentucky

Alice Lloyd Col—HEW  
 Asbury Col—HEW  
 Asbury Theol Sem—HEW  
 Bellarmine Col—HEW  
 Berea Col—HEW  
 Brescia Col—HEW  
 Campbellsville Col—HEW  
 Catherine Spalding Col—HEW  
 Centre Col of Kentucky—HEW  
 Cumberland Col—HEW  
 Eastern Kentucky Univ—HEW  
 Georgetown Col—HEW  
 Kentucky Southern Col—HEW  
 Kentucky State Col—HEW  
 Kentucky Wesleyan Col—HEW  
 Lees Jr Col—HEW  
 Midway Jr Col—HEW  
 Morehead State Univ—HEW  
 Murray St Univ—HEW  
 Nazareth Col of Kentucky—HEW  
 Paducah Jr Col—HEW  
 Pikeville Col—HEW  
 Southeastn Christian Col—HEW  
 St Catharine Jr Col—HEW  
 Transylvania Col—HEW  
 Union Col—HEW  
 Univ of Kentucky—HEW  
 Univ of Louisville—HEW  
 Ursuline Col—HEW  
 Villa Madonna Col—HEW  
 Western Kentucky Univ—HEW

#### Louisiana

Centenary Col—HEW  
 Delgado Col—HEW  
 Dillard Univ—HEW  
 Francis T Nicholls St Col—HEW  
 Grambling Col—HEW  
 Louisiana St Univ—HEW  
 Louisiana Col—HEW  
 Louisiana Poly Inst—HEW  
 Loyola Univ—HEW  
 McNeese St Col—HEW  
 Northeast Louisiana St Col—HEW  
 Northwestern St Col of La—HEW  
 Southeastern Louisiana Col—HEW  
 Southern Univ—HEW  
 St Marys Dominican Col—HEW  
 Tulane Univ—HEW

Univ of Southwestern La—HEW  
 Xavier Univ—HEW

#### Maine

Aroostook St Col—HEW  
 Bates Col—HEW  
 Bowdoin Col—HEW  
 Colby Col—HEW  
 Farmington St Col—HEW  
 Fort Kent St Col—HEW  
 Gorham St Col—HEW  
 Husson Col—HEW  
 Maine Maritime Academy—HEW  
 Nason Col—HEW  
 Northern Conserv of Music—HEW  
 Ricker Col—HEW  
 St Francis Col—HEW  
 St Josephs Col—HEW  
 Thomas Col—HEW  
 Univ of Maine—HEW  
 Washington St Col—HEW  
 Westbrook Jr Col—HEW

#### Maryland

Allegany Comm Col—HEW  
 Anne Arundel Comm Col—HEW  
 Baltimore Jr Col—HEW  
 Bowie St Col—HEW  
 Catonsville Comm Col—HEW  
 Charles County Comm Col—HEW  
 Col of Notre Dame of Md—HEW  
 Columbia Union Col—HEW  
 Coppin St Col—HEW  
 Essex Comm Col—HEW  
 Frederick Comm Col—HEW  
 Frostburg St Col—HEW  
 Goucher Col—HEW  
 Hagerstown Jr Col—HEW  
 Harford Jr Col—HEW  
 Hood Col—HEW  
 Johns Hopkins Univ—HEW  
 Loyola Col—HEW  
 Maryland Inst Col of Art—HEW  
 Montgomery Jr Col—HEW  
 Morgan St Col—HEW  
 Mt St Agnes Col—HEW  
 Mt St Marys Col—HEW  
 Ner Israel Rabbinical Col—HEW  
 Peabody Inst of Baltimore—HEW  
 Prince Georges Com Col—HEW  
 Salisbury St Col—HEW  
 St Johns Col—HEW  
 St Joseph Col—HEW  
 St Marys Col of Maryland—HEW  
 Towson St Col—HEW  
 Univ of Maryland—HEW  
 Villa Julie Col—HEW  
 Washington Col—HEW  
 Western-Maryland Col—HEW  
 Woodstock Col—HEW  
 Xaverian Col—HEW

#### Massachusetts

American Intl Col—HEW  
 Amherst Col—HEW  
 Anna Maria Col for Women—HEW  
 Aquinas School—HEW  
 Assumption Col—HEW  
 Atlantic Union Col—HEW  
 Augustinian Col Merrimack—HEW  
 Babson Inst of Bus Admin—HEW  
 Bay Path Jr Col—HEW  
 Becker Jr Col—HEW  
 Bentley Col of Acct & Fin—HEW  
 Berkshire Christian Col—HEW  
 Berkshire Comm Col—HEW  
 Boston Architectural Ctr—HEW

Boston Col—HEW  
 Boston Conserv of Music—HEW  
 Boston Univ—HEW  
 Bradford Jr Col—HEW  
 Brandeis Univ—HEW  
 Cambridge School of Bus—HEW  
 Cape Cod Comm Col—HEW  
 Cardinal Cushing Col—HEW  
 Clark Univ—HEW  
 Col of Our Lady of Elms—HEW  
 Col of the Holy Cross—HEW  
 Curry Col—HEW  
 Dean Jr Col—HEW  
 Eastern Nazarene Col—HEW  
 Emerson Col—HEW  
 Emmanuel Col—DOD  
 Charles Stark Draper Lab—DOD  
 Endicott Jr Col—HEW  
 Fisher Jr Col—HEW  
 Forsyth Sch Dent Hygnsts—HEW  
 Garland Jr Col—HEW  
 Gordon Col—HEW  
 Greenfield Comm Col—HEW  
 Hampshire Col—HEW  
 Harvard Univ—HEW  
 Hebrew Tchrs Col—HEW  
 Holyoke Comm Col—HEW  
 Lasell Jr Col—HEW  
 Leicester Jr Col—HEW  
 Lesley Col—HEW  
 Lowell Technological Inst—HEW  
 Mass Bay Comm Col—HEW  
 Mass Col of Art—HEW  
 Mass Col of Optometry—HEW  
 Mass Col of Pharmacy—HEW  
 Mass Inst of Tech—DOD  
 Mt Holyoke Col—HEW  
 Mount Ida Jr Col—HEW  
 Mt Wachusett Comm Col—HEW  
 New Engl Conserv of Music—HEW  
 Newton Col Sacred Heart—HEW  
 Newton Jr Col—HEW  
 Nichols Col of Bus Admin—HEW  
 North Shore Comm Col—HEW  
 Northampton Commerical Col—HEW  
 Northeastern Univ—HEW  
 Northern Essex Comm Col—HEW  
 Pine Manor Jr Col—HEW  
 Quincy Jr Col—HEW  
 Quinsigamond Comm Col—HEW  
 Regis Col—DOD  
 Simmons Col—HEW  
 Smith Col—HEW  
 Southeastern Comm Col—HEW  
 South Shore Comm Col—HEW  
 Southeastn Mass Tech Inst—HEW  
 Springfield Col—HEW  
 State Col at Boston—HEW  
 State Col at Bridgewater—HEW  
 State Col at Fitchburg—HEW  
 State Col at Framingham—HEW  
 State Col at Lowell—HEW  
 State Col at North Adams—HEW  
 State Col at Salem—HEW  
 State Col at Westfield—HEW  
 State Col at Worcester—HEW  
 Stevens Business Col—HEW  
 Stonehill Col—HEW  
 Suffolk Univ—HEW  
 Tufts Univ—HEW  
 Univ of Massachusetts—HEW  
 Wellesley Col—HEW  
 Wentworth Inst—DOD  
 Western New England Col—HEW  
 Wheaton Col—HEW  
 Wheelock Col—HEW

Williams Col—HEW  
 Woods Hole Ocean Inst—HEW  
 Worcester Jr Col—HEW  
 Worcester Polytech Inst—HEW  
  
*Michigan*  
 Adrian Col—HEW  
 Albion Col—HEW  
 Alma Col—HEW  
 Alpena Com Col—HEW  
 Andrews Univ—HEW  
 Aquinas Col—HEW  
 Bay de Noc Comm Col—HEW  
 Calvin Col—HEW  
 Central Mich Univ—HEW  
 Corcordia Lutheran Jr Col—HEW  
 Davenport Col of Bus—HEW  
 De Lima Jr Col—HEW  
 Delta Col—HEW  
 Detroit Inst of Tech—HEW  
 Eastern Michigan Univ—HEW  
 Ferris St Col—HEW  
 Flint Comm Jr Col—HEW  
 Glen Oaks Comm Col—HEW  
 Gogebic Comm Col—HEW  
 Grand Rapids Bapt Col—HEW  
 Grand Rapids Jr Col—HEW  
 Grand Valley St Col—HEW  
 Henry Ford Com Col—HEW  
 Highland Park Comm Col—HEW  
 Hope Col—HEW  
 Jackson Comm Col—HEW  
 Kalamazoo Col—HEW  
 Kellogg Comm Col—HEW  
 Lake Michigan Col—HEW  
 Lansing Comm Col—HEW  
 Lawrence Inst of Tech—HEW  
 Lewis Business Col—HEW  
 Mackinac Col—HEW  
 Macomb County Comm Col—HEW  
 Madonna Col—HEW  
 Marygrove Col—HEW  
 Mercy Col of Detroit—HEW  
 Merrill-Palmer Inst—HEW  
 Mich Tech Univ—HEW  
 Michigan Christain Jr Col—HEW  
 Michigan Lutheran Col—HEW  
 Michigan State Univ—HEW  
 Monroe County Comm Col—HEW  
 Montcalm County Comm Col—HEW  
 Muskegon County Comm Col—HEW  
 Nazareth Col—HEW  
 North Central Mich Col—HEW  
 Northern Michigan Univ—HEW  
 Northwestern Mich Col—HEW  
 Oakland Comm Col—HEW  
 Oakland Univ—HEW  
 Olivet Col—HEW  
 Owosso Col—HEW  
 Port Huron Jr Col—HEW  
 Reformed Bible Inst—HEW  
 Sacred Heart Sem—HEW  
 Saginaw Valley Col—HEW  
 Schoolcraft Col—HEW  
 Siena Heights Col—HEW  
 Southwestern Mich Col—HEW  
 Spring Arbor Col—HEW  
 Suomi Col—HEW  
 Univ of Detroit—HEW  
 Univ of Michigan—HEW  
 Washtenaw Comm Col—HEW  
 Wayne State Univ—HEW  
 Western Mich Univ—HEW

#### *Minnesota*

Anoka-Ramsey St Jr Col—HEW

Augsburg Col—HEW  
 Austin Jr Col—HEW  
 Bemidji St Col—HEW  
 Bethany Lutheran Col—HEW  
 Bethel Col and Sem—HEW  
 Brainerd Jr Col—HEW  
 Carleton Col—HEW  
 Col of St Benedict—HEW  
 Col of St Catherine—HEW  
 Col of St Scholastica—HEW  
 Col of St Teresa—HEW  
 Col of St Thomas—HEW  
 Concordia Col—HEW  
 Concordia Col—HEW  
 Corbett Col—HEW  
 Crosier Sem—HEW  
 Ely Jr Col—HEW  
 Fergus Falls St Jr Col—HEW  
 Gustavus Adolphus Col—HEW  
 Hamline Univ—HEW  
 Hibbing Jr Col—HEW  
 Itasca Jr Col—HEW  
 Lea College—HEW  
 Macalester Col—HEW  
 Mankato St Col—HEW  
 Mesabi St Jr Col—HEW  
 Metropolitan St Jr Col—HEW  
 Minneapolis Sch of Art—HEW  
 Moorhead St Col—HEW  
 North Hennepin St Jr Col—HEW  
 Rochester Jr Col—HEW  
 Southwest St Col—HEW  
 St Cloud St Col—HEW  
 St Johns Univ—HEW  
 St Marys Col—HEW  
 St Marys Jr Col—HEW  
 St Olaf Col—HEW  
 Univ of Minnesota—HEW  
 Willmar Comm Col—HEW  
 Winona St Col—HEW  
 Worthington Jr Col—HEW

#### *Mississippi*

Alcorn Agr and Mech Col—HEW  
 Belhaven Col—HEW  
 Blue Mountain Col—HEW  
 Coahoma Jr Col—HEW  
 Copiah-Lincoln Jr Col—HEW  
 Delta St Col—HEW  
 East Central Jr Col—HEW  
 East Miss Jr Col—HEW  
 Hinds Jr Col—HEW  
 Holmes Jr Col—HEW  
 Itawamba Jr Col—HEW  
 Jackson County Jr Col—HEW  
 Jackson St Col—HEW  
 Jefferson Davis Jr Col—HEW  
 Jones County Jr Col—HEW  
 Mary Holmes Jr Col—HEW  
 Meridian Jr Col—HEW  
 Millsaps Col—HEW  
 Miss Delta Jr Col—HEW  
 Miss Indus Col—HEW  
 Miss St Col for Women—HEW  
 Miss St Univ—HEW  
 Miss Valley St Col—HEW  
 Northeast Miss Jr Col—HEW  
 Northwest Miss Jr Col—HEW  
 Pearl River Jr Col—HEW  
 Perkinson Jr Col—HEW  
 Prentiss Norm & Ind Inst—HEW  
 Rust Col—HEW  
 Saints Jr Col—HEW  
 Southwest Miss Jr Col—HEW  
 T J Harris Jr Col—HEW  
 Tougaloo Col—HEW

Univ of Miss—HEW  
 Univ of Southern Miss—HEW  
 Utica Jr Col—HEW  
 William Carey Col—HEW  
 Wood Jr Col—HEW

#### Missouri

Avil Col—HEW  
 Central Bible Inst—HEW  
 Central Methodist Col—HEW  
 Central Missouri St Col—HEW  
 Christian Col—HEW  
 Concordia Seminary—HEW  
 Cottey Col—HEW  
 Crowder Col—HEW  
 Culver-Stockton Col—HEW  
 Drury Col—HEW  
 Evangel Col—HEW  
 Fontbonne Col—HEW  
 Hannibal-La Grange Col—HEW  
 Harris Tchrs Col—HEW  
 Immaculate Conception Sem—HEW  
 Jefferson County Col Dist—HEW  
 Junior Col Dist St Louis—HEW  
 Kansas City Art Inst—HEW  
 Kansas City Col of Osteop—HEW  
 Kemper Military Sch & Col—HEW  
 Kirksville Col of Osteop—HEW  
 Lincoln Univ—HEW  
 Lindenwood Col for Women—HEW  
 Maryville Col Sac Heart—HEW  
 Mercy Jr Col—HEW  
 Metropolitan Jr Col—HEW  
 Mineral Area Jr Col Dist—HEW  
 Missouri Southern Col—HEW  
 Missouri Valley Col—HEW  
 Missouri Western Jr Col—HEW  
 Northeast Mo St Tchrs Col—HEW  
 Northwest Missouri St Col—HEW  
 Notre Dame Col—HEW  
 Park Col—HEW  
 Rockhurst Col—HEW  
 School of the Ozarks—HEW  
 Southeast Missouri St Col—HEW  
 Southwest Baptist Col—HEW  
 Southwest Missouri St Col—HEW  
 St Louis Col of Pharmacy—HEW  
 St Louis Univ—HEW  
 St Marys Col of O'Fallon—HEW  
 St Pauls Col—HEW  
 Stephens Col—HEW  
 Tarkio Col—HEW  
 Three Rivers Jr Col—HEW  
 Trenton Jr Col—HEW  
 Univ of Missouri Columbia—HEW  
 Univ of Missouri Ctrl Sys—HEW  
 Univ of Missouri Kansas City—HEW  
 Univ of Missouri Rolla—HEW  
 Univ of Missouri St Louis—HEW  
 Washington Univ—HEW  
 Webster Col—HEW  
 Westminster Col—HEW  
 William Jewell Col—HEW  
 William Woods Col—HEW

#### Montana

Carroll Col—HEW  
 Col of Great Falls—HEW  
 Custer County Jr Col—HEW  
 Dawson County Jr Col—HEW  
 Eastern Montana Col—HEW  
 Montana Col Mineral Sci—HEW  
 Montana St Univ—HEW  
 Northern Montana Col—HEW  
 Rocky Mountain Col—HEW  
 Univ of Montana—HEW

Western Montana Col—HEW

#### Nebraska

Chadron St Col—HEW  
 Col of St Mary—HEW  
 Concordia Tchrs Col—HEW  
 Creighton Univ—HEW  
 Dana Col—HEW  
 Doane Col—HEW  
 Duchesne Col Sacred Heart—HEW  
 Fairbury Jr Col—HEW  
 Hastings Col—HEW  
 John F Kennedy Col—HEW  
 Kearney St Col—HEW  
 McCook Jr Col—HEW  
 Midland Luthern Col—HEW  
 Municipal Univ of Omaha—HEW  
 Nebr Brd Educ St Norml Col—HEW  
 Nebraska Wesleyan Univ—HEW  
 North Platte Jr Col—HEW  
 Pershing Col—HEW  
 Peru St Col—HEW  
 Scottsbluff Col—HEW  
 Union Col—HEW  
 Univ of Nebraska—HEW  
 Wayne St Col—HEW  
 York Col—HEW

#### Nevada

Univ of Nevada—HEW

#### New Hampshire

Belknap Col—HEW  
 Colby Jr Col—HEW  
 Dartmouth Col—HEW  
 Franconia Col—HEW  
 Franklin Pierce Col—HEW  
 Gunstock Jr Col—HEW  
 Mt St Mary Col—HEW  
 Nathaniel Hawthorne Col—HEW  
 New England Col—HEW  
 New Hampshire Tech Inst—HEW  
 Notre Dame Col—HEW  
 Rivier Col—HEW  
 St Anselm's Col—HEW  
 Univ of New Hampshire—HEW

#### New Jersey

Alphonsus Col—HEW  
 Archangel Col—HEW  
 Assumption Col Sisters—HEW  
 Atlantic Comm Col—HEW  
 Beth Medrash Gevoha Amer—HEW  
 Bloomfield Col—HEW  
 Caldwell Col for Women—HEW  
 Camden Cnty Col—HEW  
 Centenary Col for Women—HEW  
 Col of St Elizabeth—HEW  
 Cumberland Cnty Col—HEW  
 Drew Univ—HEW  
 Fairleigh Dickinson Univ—HEW  
 Georgian Court Col—HEW  
 Glassboro St Col—HEW  
 Immac Conception Jr Col—HEW  
 Inst for Advanced Study—DOD  
 Jersey City St Col—HEW  
 Mercer County Comm Col—HEW  
 Middlesex County Col—HEW  
 Monmouth Col—HEW  
 Montclair St Col—HEW  
 Mt St Mary Col—HEW  
 NJ Col of Med and Dent—HEW  
 New Brunswick Theol Sem—HEW  
 Newark Col of Eng—HEW  
 Newark St Col—HEW  
 Northeastern Col Bible Inst—HEW  
 Ocean County Col—HEW

Paterson St Col—HEW  
 Princeton Theol Sem—HEW  
 Princeton Univ—DOD  
 Rider Col—HEW  
 Rutgers St Univ—HEW  
 Seton Hall Univ—HEW  
 St Peters Col—HEW  
 Stevens Inst of Tech—DOE  
 Tombrock Col—HEW  
 Trenton Jr Col—HEW  
 Trenton St Col—HEW  
 Union Jr Col—HEW  
 Upssala Col—HEW  
 Westminster Choir Col—HEW

#### New Mexico

Col of Santa Fe—HEW  
 Eastern New Mexico Univ—HEW  
 New Mexico Inst Mining & Tech—DOD  
 New Mexico Highlands Univ—HEW  
 New Mexico Jr Col—HEW  
 New Mexico St Univ—DOE  
 Roswell Comm Col—HEW  
 Univ of Albuquerque—HEW  
 Univ of New Mexico—DOD  
 Western New Mexico Univ—HEW

#### New York

Adelphi Univ—HEW  
 Adirondack Comm Col—HEW  
 Agr & Tech Col Alfred—HEW  
 Agr & Tech Col Canton—HEW  
 Agr & Tech Col Cobleskill—HEW  
 Agr & Tech Col Delhi—HEW  
 Agr & Tech Col Farmingdale—HEW  
 Agr & Tech Col Morrisville—HEW  
 Albany Col of Pharmacy—HEW  
 Albany Medical Col—HEW  
 Alfred Univ—HEW  
 Auburn Comm Col—HEW  
 Bank Street Col of Educ—HEW  
 Bard Col—HEW  
 Barnard Col—HEW  
 Bennett Col—HEW  
 Brentwood Col—HEW  
 Briarcliff Col—HEW  
 Brooklyn Law School—HEW  
 Broome Tech Comm Col—HEW  
 Canisius Col—HEW  
 Cazenovia Col—HEW  
 Clarkson Col of Tech—HEW  
 Col at Brockport—HEW  
 Col at Buffalo—HEW  
 Col at Cortland—HEW  
 Col at Fredonia—HEW  
 Col at Geneseo—HEW  
 Col at New Paltz—HEW  
 Col at Oneonta—HEW  
 Col at Oswego—HEW  
 Col at Plattsburgh—HEW  
 Col at Potsdam—HEW  
 Col Cntr of Finger Lakes—HEW  
 Col of Forestry Syracuse—HEW  
 Col of Insurance—HEW  
 Col of Mt St Vincent—HEW  
 Col of New Rochelle—HEW  
 Col of Pharmaceutical Sci—HEW  
 Col of St Rose—HEW  
 Colgate Univ—HEW  
 Columbia Univ—DOD  
 Concordia Jr Col—HEW  
 Cooper Union—HEW  
 Cornell Univ—DOD  
 Corning Comm Col—HEW  
 CUNY Manhattan Comm Col—HEW  
 CUNY Bronx Comm Col—HEW



CUNY Brooklyn Col—HEW  
 CUNY Central System—HEW  
 CUNY City Col—HEW  
 CUNY Hunter Col—HEW  
 CUNY John Jay Col—HEW  
 CUNY Kingsboro Comm col—HEW  
 CUNY N Y City Comm Col—HEW  
 CUNY Queens Col—HEW  
 CUNY Queensboro Comm col—HEW  
 CUNY Richmond col—HEW  
 CUNY Staten Is Comm Col—HEW  
 D'youville Col—HEW  
 Dominican Col of Blauvelt—HEW  
 Downstate Medical Ctr—HEW  
 Dutchess Comm Col—HEW  
 Elizabeth Seton Col—HEW  
 Elmira Col—HEW  
 Epiphany Apostolic Col—HEW  
 Erie County Tech Inst—HEW  
 Fashion Inst of Tech—HEW  
 Finch Col—HEW  
 Fordham Univ—HEW  
 Fulton-Montgomery Comm Col—HEW  
 Good Counsel Col—HEW  
 Hamilton Col—HEW  
 Hartwich Col—HEW  
 Hobart and Wm Smith Cols—HEW  
 Hofstra Univ—HEW  
 Houghton Col—HEW  
 Hudson Valley Comm Col—HEW  
 Immaculata Col—HEW  
 Iona Col—HEW  
 Ithaca Col—HEW  
 Jamestown Comm Col—HEW  
 Jefferson Comm Col—HEW  
 Jewish Theil Sem of Amer—HEW  
 Juilliard School of Music—HEW  
 Keuka Col—HEW  
 Kings Col—HEW  
 Kirkland Col—HEW  
 Ladycliff Col—HEW  
 LeMoyne Col—HEW  
 Lewis Col of Podiatry—HEW  
 Long Island Univ—HEW  
 Manhattan Col—HEW  
 Manhattan Sch of Musio—HEW  
 Manhattanville Col Sac Ht—HEW  
 Mannes Col of Music—HEW  
 Maria Col of Albany—HEW  
 Maria Regina Col—HEW  
 Marist Col—HEW  
 Maritime Col—HEW  
 Marymount Col—HEW  
 Marymount Manhattan Col—HEW  
 Mater Dei Col—HEW  
 Mercy Col—HEW  
 Mills Col of Educ—HEW  
 Mohawk Valley Comm Col—HEW  
 Molloy Catholic Col women—HEW  
 Monroe Comm Col—HEW  
 Mt St Joseph Col—HEW  
 Mt St Mary Col—HEW  
 Nassau Comm Col—HEW  
 Nazareth Col of Rochester—HEW  
 New School for Social Res—HEW  
 New York Col of Music—HEW  
 New York Inst of Tech—HEW  
 New York Law School—HEW  
 New York Medical Col—HEW  
 New York Univ—HEW  
 Niagara County Comm Col—HEW  
 Niagara Univ—HEW  
 Notre Dame Col of Staten Is—HEW  
 Onondaga Comm Col—HEW  
 Orange County Comm Col—HEW  
 Pace Col—HEW

Parsons School of Design—HEW  
 Paul Smiths Col Arts Sci—HEW  
 Polytechnic Inst of Bklyn—DOD  
 Pratt Inst—HEW  
 Queen of the Apostles Col—HEW  
 Rabbi Joseph Rabbincol—HEW  
 Rabbinical Sem of America—HEW  
 Rabbinical Acad M R Berlin—HEW  
 Rabbinical Col Chsan Sofer—HEW  
 RCA Inst—HEW  
 Rensselaer Ploytech Inst—HEW  
 Roberts Wesleyan Col—HEW  
 Rochester Inst of Tech—HEW  
 Rockefeller Univ—HEW  
 Rockland Comm Col—HEW  
 Rosary Hill Col—HEW  
 Russell Sage Col—HEW  
 Sancta Maria Jr Col—HEW  
 Sarah Lawrence Col—HEW  
 Skidmore Col—HEW  
 St Bernardine Siena Col—HEW  
 St Bonaventure Univ—HEW  
 St Clare Col—HEW  
 St Francis Col—HEW  
 St John Fisher Col—HEW  
 St Johns Univ—HEW  
 St Josephs Col for women—HEW  
 St Lawrence Univ—HEW  
 St Thomas Aquinas Col—HEW  
 St Vladimirs Theol Sem—HEW  
 State Univ at Albany—HEW  
 State Univ at Binghamton—HEW  
 State Univ at Buffalo—HEW  
 State Univ at Stony Brook—HEW  
 Suffolk county Comm col—HEW  
 Sullivan County Comm Col—HEW  
 Syracuse Univ—DOD  
 Teachers Col—HEW  
 Ulster County Comm Col—HEW  
 Union Col—HEW  
 Union Col & Univ Ctrl Sys—HEW  
 Univ of Rochester—DOD  
 Upstate Medical Ctr—HEW  
 Vassar Col—HEW  
 Villa Maria Col Buffalo—HEW  
 Voorhees Tech Inst—HEW  
 Wadham Hall—HEW  
 Wagner Col—HEW  
 Webb Inst of Naval Arch—HEW  
 Wells Col—HEW  
 Westchester Comm Col—HEW  
 Yeshiva Univ—HEW

#### North Carolina

A & T St Univ of NC—HEW  
 Appalachian St Univ—HEW  
 Asheville-Biltmore Col—HEW  
 Atlantic Christian Col—HEW  
 Barber-Scotia Col—HEW  
 Belmont Abbey Col—HEW  
 Bennett Col—HEW  
 Brevard Col—HEW  
 Campbell Col—HEW  
 Catawba Col—HEW  
 Central Piedmont Comm Col—HEW  
 Chowan Col—HEW  
 Col of The Albemarle—HEW  
 Davidson Col—HEW  
 Davidson County Comm Col—HEW  
 Duke Univ—HEW  
 East Carolina Univ—HEW  
 Elizabeth City St Col—HEW  
 Elon Col—HEW  
 Fayetteville St Col—HEW  
 Fayetteville Tech Inst—HEW  
 Greensboro Col—HEW

Guilford Col—HEW  
 High Point Col—HEW  
 Isothermal Comm Col—HEW  
 Johnson C Smith Univ—HEW  
 Kittrell Col—HEW  
 Lees-McRae Col—HEW  
 Lenoir County Comm Col—HEW  
 Lenoir-Rhyne Col—HEW  
 Livingston Col—HEW  
 Louisburg Col—HEW  
 Mars Hill Col—HEW  
 Meredith Col—HEW  
 Methodist Col—HEW  
 Mitchell Col—HEW  
 Montreat-Anderson Col—HEW  
 Mt Olive Jr Col—HEW  
 NC Col Durham—HEW  
 NC School of Arts—HEW  
 NC St. Univ at Raleigh—HEW  
 NC Wesleyan Col—HEW  
 Pembroke St Col—HEW  
 Pfeiffer Col—HEW  
 Pitt Technical Inst—HEW  
 Queens Col—HEW  
 Rockingham Comm Col—HEW  
 Sacred Heart Jr Col—HEW  
 Salem Col—HEW  
 Sandhills Comm Col—HEW  
 Shaw Univ—HEW  
 Southeastern Comm Col—HEW  
 Southern Pilgrim Col—HEW  
 St Andrews Presby Col—HEW  
 St Augustines Col—HEW  
 St Marys Jr Col—HEW  
 Surry Comm Col—HEW  
 Univ of NC at Charlotte—HEW  
 Univ of NC at Greensboro—HEW  
 Univ of NC Central Sys—HEW  
 Univ of NC Chapel Hill—HEW  
 Wake Forest Univ—HEW  
 Warren Wilson Col—HEW  
 Western Carolina Col—HEW  
 Western Piedmont Comm Col—HEW  
 Wilkes Comm Col—HEW  
 Wilmington Col—HEW  
 Wingate Col—HEW  
 Winston-Salem St Col—HEW

#### North Dakota

Assumption Col—HEW  
 Bismarck Jr Col—HEW  
 Dickinson St Col—HEW  
 Jamestown Col—HEW  
 Lake Region Jr Col—HEW  
 Mary Col—HEW  
 Mayville St Col—HEW  
 Minot St Col—HEW  
 North Dakota Sch Forestry—HEW  
 North Dakota St Sch Sci—HEW  
 North Dakota St Univ—HEW  
 Univ of North Dakota—HEW  
 Valley City St Col—HEW

#### Ohio

Antioch Col—HEW  
 Ashland Col—HEW  
 Baldwin-Wallace Col—HEW  
 Bluffton Col—HEW  
 Bowling Green St Univ—HEW  
 Capital Univ—HEW  
 Case-Western Reserve Univ—HEW  
 Central St Univ—HEW  
 Cleveland Inst of Music—HEW  
 Cleveland St Univ—HEW  
 Col Mt St Joseph-on-Ohio—HEW  
 Col of Steubenville—HEW

Col of Wooster—HEW  
 Col St Mary of Springs—HEW  
 Columbus Col Art & Design—HEW  
 Cuyahoga Comm Col—HEW  
 Defiance Col—HEW  
 Denison Univ—HEW  
 Dyke Col—HEW  
 Findlay Col—HEW  
 Franklin Univ—HEW  
 Heidelberg Col—HEW  
 Hiram Col—HEW  
 John Carroll Univ—HEW  
 Kent St Univ—HEW  
 Kenyon Col—HEW  
 Lake Erie Col—HEW  
 Lorain County Comm Col—HEW  
 Malone Col—HEW  
 Marietta Col—HEW  
 Mary Manse Col—HEW  
 Miami Univ—HEW  
 Mt Union Col—HEW  
 Muskingum Col—HEW  
 Notre Dame Col—HEW  
 Oberlin Col—HEW Ohio Col of Applied Sci—  
 HEW  
 Ohio Col of Podiatry—HEW  
 Ohio Northern Univ—HEW  
 Ohio St Univ—HEW  
 Ohio Tech Inst—HEW  
 Ohio Univ—HEW  
 Ohio Wesleyan Univ—HEW  
 Otterbein Col—HEW  
 Our Lady Cincinnati Col—HEW  
 Rabbinical Col of Telshe—HEW  
 Rio Grande Col—HEW  
 Salmon P Chase Col of Law—HEW  
 Sch of Dayton Art Inst—HEW  
 Sinclair Col—HEW  
 St John Col of Cleveland—HEW  
 Tiffin Univ—HEW  
 Univ of Akron—HEW  
 Univ of Cincinnati—HEW  
 Univ of Dayton—DOD  
 Univ of Toledo—HEW  
 Urbana Univ—HEW  
 Ursuline Col for Women—HEW  
 Walsh Col—HEW  
 Western Col for Women—HEW  
 Wilberforce Univ—HEW  
 Wilmington Col—HEW  
 Wittenberg Univ—HEW  
 Xavier Univ—HEW  
 Youngstown St Univ—HEW

#### Oklahoma

Altus Jr Col—HEW  
 Bacone Col—HEW  
 Bethany-Nazarene Col—HEW  
 Cameron St Agr Col—HEW  
 Central Pilgrim Col—HEW  
 Central St Col—HEW  
 Connor St Agr Col—HEW  
 East Central St Col—HEW  
 Eastn Okla Agr & Mech Col—HEW  
 El Reno Col—HEW  
 Langston Univ—HEW  
 Murray St Agr Col—HEW  
 Northeastern Okla A&M Col—HEW  
 Northeastern St Col—HEW  
 Northern Oklahoma Col—HEW  
 Northwestern St Col—HEW  
 Okla Col of Liberal Arts—HEW  
 Oklahoma Baptist Univ—HEW  
 Oklahoma Christian Col—HEW  
 Oklahoma City Univ—HEW  
 Oklahoma Military Academy—HEW

Oklahoma St Univ—HEW  
 Oral Roberts Univ—HEW  
 Panhandle Agr & Mech Col—HEW  
 Phillips Univ—HEW  
 Poteau Comm Col—HEW  
 Sayre Jr Col—HEW  
 Southeastern St Col—HEW  
 Southwestern Col—HEW  
 Southwestern St Col—HEW  
 St Gregorys Col—HEW  
 Univ of Oklahoma—HEW  
 Univ of Tulsa—HEW  
 Oregon  
 Blue Mountain Comm Col—HEW  
 Cascade Col—HEW  
 Central Oregon Comm Col—HEW  
 Clackamas Comm Col—HEW  
 Clatsop Comm Col—HEW  
 Columbia Christian Col—HEW  
 Concordia Col—HEW  
 Eastern Oregon Col—HEW  
 George Fox Col—HEW  
 Lane Comm Col—HEW  
 Lewis and Clark Col—HEW  
 Linfield Col—HEW  
 Linn-Benton Comm Col—HEW  
 Marylhurst Col—HEW  
 Mt Angel Col—HEW  
 Mt Hood Comm Col—HEW  
 Multnomah Col—HEW  
 Museum Art School—HEW  
 Oregon Col of Education—HEW  
 Oregon St Univ—HEW  
 Oregon Tech Inst—HEW  
 Pacific Univ—HEW  
 Portland Comm Col—HEW  
 Portland State Col—HEW  
 Reed Col—HEW  
 Southern Oregon Col—HEW  
 Southwestern Oregon Comm Col—HEW  
 Treasure Valley Comm Col—HEW  
 Umpqua Comm Col—HEW  
 Univ of Oregon—HEW  
 Univ of Portland—HEW  
 Warner Pacific Col—HEW  
 Willamette Univ—HEW

#### Pennsylvania

Albright Col—HEW  
 Allegheny Col—HEW  
 Allegheny County Comm Col—HEW  
 Allentown Col St Francis—HEW  
 Alliance Col—HEW  
 Alvernia Col—HEW  
 Beaver Col—HEW  
 Bloomsburg St Col—HEW  
 Bryn Mawr Col—HEW  
 Bucknell Univ—HEW  
 Bucks County Comm Col—HEW  
 Cabrini Col—HEW  
 California St Col—HEW  
 Carnegie-Mellon Univ—DOD  
 Cedar Crest Col—HEW  
 Chatham Col—HEW  
 Chestnut Hill Col—HEW  
 Cheyney St Col—HEW  
 Christ Saviour Seminary—HEW  
 Clarion St Col—HEW  
 Col Misericordia—HEW  
 Comm Col of Philadelphia—HEW  
 Crozer Theol Seminary—HEW  
 Del Valley Col Sci & Arg—HEW  
 Dickinson Col—HEW  
 Dickinson School of Law—HEW  
 Drexel Inst of Tech—HEW

Dropsie Col Hebr Cog Lrng—HEW  
 Duquesne Univ—HEW  
 East Stroudsburg St Col—HEW  
 Eastern Baptist Col—HEW  
 Eastern Pilgrim Col—HEW  
 Edinboro St Col—HEW  
 Elizabethtown Col—HEW  
 Ellen Cushing Jr Col—HEW  
 Franklin and Marshall Col—HEW  
 Gannon Col—HEW  
 Geneva Col—HEW  
 Gettysburg Col—HEW  
 Gwynedd-Mercy Col—HEW  
 Hahnemann Med Col & Hosp—HEW  
 Harcum Jr Col—HEW  
 Harrisburg Area Comm Col—HEW  
 Haverford Col—HEW  
 Holy Family Col—HEW  
 Immaculata Col—HEW  
 Indiana Univ of Pa—HEW  
 Jeffersom Med Col Phila—HEW  
 Juniata Col—HEW  
 Keystone Jr Col—HEW  
 Kings Col—HEW  
 Kutztown St Col—HEW  
 La Roche Col—HEW  
 Lafayette Col—HEW  
 La Salle Col—HEW  
 Lebanon Valley Col—HEW  
 Lehigh Univ—HEW  
 Lincoln Univ—HEW  
 Lock Haven St Col—HEW  
 Lycoming Col—HEW  
 Manor Jr Col—HEW  
 Mansfield St Col—HEW  
 Marywood Col—HEW  
 Mercyhurst Col—HEW  
 Messiah Col—HEW  
 Millersville St Col—HEW  
 Montgomery Cnty Comm Col—HEW  
 Moore Col of Art—HEW  
 Moravian Col—HEW  
 Mt Aloysius Jr Col—HEW  
 Mt Mercy Col—HEW  
 Muhlenburg Col—HEW  
 Northeastn Christn Jr Col—HEW  
 Our Lady of Angels Col—HEW  
 Peirce Jr Col—HEW  
 Pennsylvania Col Optometry—HEW  
 Pennsylvania Col Podiatry—HEW  
 Pennsylvania St Univ—DOD  
 Phila Col of Osteopathy—HEW  
 Phila Col of Pharm & Sci—HEW  
 Phila Col of Text & Sci—HEW  
 Philadelphia Col of Art—HEW  
 Philadelphia Col of Bible—HEW  
 Philadelphia Musical Acad—HEW  
 PMC Colleges—HEW  
 Point Park Col—HEW  
 Robert Morris Jr Col—HEW  
 Rosemont Col—HEW  
 Sacred Heart Jr Col—HEW  
 Seton Hill Col—HEW  
 Shippensburg St Col—HEW  
 Slippery Rock St Col—HEW  
 Spring Garden Inst—HEW  
 St Fidelis Col & Sem—HEW  
 St Francis Col—HEW  
 St Josephs Col—HEW  
 St Vincent Col—HEW  
 Susquehanna Univ—HEW  
 Swarthmore Col—HEW  
 Temple Univ—HEW  
 Thiel Col—HEW  
 Univ of Pennsylvania—HEW  
 Univ of Pittsburgh—HEW

Univ of Scranton—HEW  
 Ursinus Col—HEW  
 Valley Forge Military Jr Col—HEW  
 Villa Maria Col—HEW  
 Villanova Univ—HEW  
 Washington & Jefferson Col—HEW  
 Watson Sch of Physiatrics—HEW  
 Waynesburg Col—HEW  
 West Chester St Col—HEW  
 Westminster Col—HEW  
 Wilkes Col—HEW  
 Williamsport Comm Col—HEW  
 Wilson Col—HEW  
 Womans Med Col of Pa—HEW  
 York Jr Col—HEW

#### *Rhode Island*

Barrington Col—HEW  
 Brown Univ—DOD  
 Bryant Col—HEW  
 Johnson & Wales Jr Col Bus—HEW  
 Mt St Joseph Col—HEW  
 Providence Col—HEW  
 Rhode Island Col—HEW  
 Rhode Island Jr Col—HEW  
 Rhode Island Sch Design—HEW  
 Roger Williams Jr Col—HEW  
 Salve Regina Col—HEW  
 Seminary Our Lady of Prov—HEW  
 Univ of Rhode Island—DOD

#### *South Carolina*

Allen Univ—HEW  
 Anderson Col—HEW  
 Benedict Col—HEW  
 Central Wesleyan Col—HEW  
 Citadel Military Col SC—HEW  
 Claffin Col—HEW  
 Clemson Univ—HEW  
 Coker Col—HEW  
 Col of Charleston—HEW  
 Columbia Col—HEW  
 Converse Col—HEW  
 Erskine Col—HEW  
 Friendship Jr Col—HEW  
 Furman Univ—HEW  
 Greenville Tech Educ Ctr—HEW  
 Lander Col—HEW  
 Medical Col of SC—HEW  
 Morris Col—HEW  
 Newberry Col—HEW  
 North Greenville Jr Col—HEW  
 Orngbrg-Calhn Tech Educ Ctr—HEW  
 Palmer Col—HEW  
 Piedmont Tech Educ Ctr—HEW  
 Presbyterian Col—HEW  
 Rench-Darlington Tech Sch—HEW  
 Richland Tech Educ Ctr—HEW  
 South Carolina St Col—HEW  
 Spartanburg Jr Col—HEW  
 Sprtnbrg Cnty Tech Educ Ctr—HEW  
 Sumter Area Tech Educ Ctr—HEW  
 Univ of South Carolina—HEW  
 Voorhees Col—HEW  
 Winthrop Col—HEW  
 Wofford Col—HEW  
 York County Tech Educ Ctr—HEW

#### *South Dakota*

Augustana Col—HEW  
 Black Hills St Col—HEW  
 Dakota Wesleyan Univ—HEW  
 General Beadle St Col—HEW  
 Huron Col—HEW  
 Mt Marty Col—HEW  
 Northern St Col—HEW  
 Presentation Col—HEW

Sioux Falls Col—HEW  
 South Dakota Sch Mines & Tech—HEW  
 South Dakota St Univ—HEW  
 Southern St Col—HEW  
 Univ of South Dakota—HEW  
 Yankton Col—HEW

#### *Tennessee*

Austin Peay St Col—HEW  
 Bethel Col—HEW  
 Carson-Newman Col—HEW  
 Chattanooga City Col—HEW  
 Chattanooga St Tech Inst—HEW  
 Christian Brothers Col—HEW  
 Cleveland St Comm Col—HEW  
 Columbia St Comm Col—HEW  
 Covenant Col—HEW  
 Cumberland Col of Tenn—HEW  
 David Lipscomb Col—HEW  
 East Tennessee St Univ—HEW  
 Fisk Univ—HEW  
 Freed-Hardeman Col—HEW  
 George Peabody Col Tchrs—HEW  
 Hiwassee Col—HEW  
 Jackson St Comm College—HEW  
 King Col—HEW  
 Knoxville Col—HEW  
 Lambuth Col—HEW  
 Lane Col—HEW  
 Lee Col—HEW  
 Le Moyne Col—HEW  
 Lincoln Memorial Univ—HEW  
 Martin Col—HEW  
 Maryville Col—HEW  
 McKenzie Col—HEW  
 Meharry Medical Col—HEW  
 Memphis Academy of Arts—HEW  
 Memphis St Univ—HEW  
 Middle Tenn St Univ—HEW  
 Milligan Col—HEW  
 Morristown Col—HEW  
 Owen Col—HEW  
 Siena Col—HEW  
 Southern Col of Optometry—HEW  
 Southern Missionary Col—HEW  
 Southwestern at Memphis—HEW  
 Tenn Agr & Indust St Univ—HEW  
 Tenn Technologi Univ—HEW  
 Tenn Temple Col—HEW  
 Tenn Wesleyan Col—HEW  
 Trevecca Nazarene Col—HEW  
 Tusculum Col—HEW  
 Union Univ—HEW  
 Univ of Chattanooga—HEW  
 Univ of Tenn—HEW  
 Univ of the South—HEW  
 Vanderbilt Univ—HEW  
 Wm Jennings Bryan Col—HEW

#### *Texas*

Abilene Christian Col—HEW  
 Allen Academy—HEW  
 Alvin Jr Col—HEW  
 Amarillo Col—HEW  
 Angelina Col—HEW  
 Angelo St Col—HEW  
 Austin Col—HEW  
 Baylor Univ—HEW  
 Bee County Col—HEW  
 Bishop Col—HEW  
 Blinn Col—HEW  
 Central Tex Union Jr Col—HEW  
 Christian Col Southwest—HEW  
 Christopher Col—HEW  
 Cisco Jr Col—HEW  
 Clarendon Col—HEW

Concordia Lutheran Col—HEW  
 Cooke County Jr Col—HEW  
 Dallas Baptist Col—HEW  
 Dallas County Jr Col Dist—HEW  
 Del Mar Col—HEW  
 East Texas Baptist Col—HEW  
 East Texas St Univ—HEW  
 El Centro College—HEW  
 Fort Worth Christian Col—HEW  
 Frank Phillips Col—HEW  
 Grayson County Jr Col—HEW  
 Hardin-Simmons Univ—HEW  
 Henderson County Jr Col—HEW  
 Hill Jr Col—HEW  
 Houston Baptist Col—HEW  
 Howard County Jr Col—HEW  
 Howard Payne Col—HEW  
 Huston-Tillotson Col—HEW  
 Incarnate Word Col—HEW  
 Kilgore Col—HEW  
 Lamar St Col of Tech—HEW  
 Laredo Jr Col—HEW  
 Lee Col—HEW  
 LeTourneau Col—HEW  
 Lon Morris Col—HEW  
 Lubbock Christian Col—HEW  
 M D Anderson Hospital—HEW  
 Mary Hardin-Baylor Col—HEW  
 McLennan Comm Col—HEW  
 McMurry Col—HEW  
 Midwestern Univ—HEW  
 Navarro Jr Col—HEW  
 North Texas St Univ—HEW  
 Odessa Col—HEW  
 Our Lady of the Lake Col—HEW  
 Pan American Col—HEW  
 Panola Col—HEW  
 Paris Jr Col—HEW  
 Paul Quinn Col—HEW  
 Prairie View A&M Col—HEW  
 Ranger Jr Col—HEW  
 Rice Univ (audit only-DOD)—HEW  
 Sacred Heart Dominican Col—HEW  
 Sam Houston St Col—HEW  
 San Antonio Col—HEW  
 San Jacinto Col—HEW  
 Schreiner Inst—HEW  
 South Plains Col—HEW  
 South Texas Jr Col—HEW  
 Southern Methodist Univ—HEW  
 Southwest Texas Jr Col—HEW  
 Southwest Texas St Col—HEW  
 Southwestern Medical Sch—HEW  
 Southwestern Union Col—HEW  
 Southwestern Assemb God Col—HEW  
 Southwestern Christian Col—HEW  
 St Edwards Univ—HEW  
 St Marys Univ San Antonio—HEW  
 Stephen F Austin St Col—HEW  
 Sul Ross St Col—HEW  
 Tarleton St Col—HEW  
 Tarrant County Jr Col—HEW  
 Temple Jr Col—HEW  
 Texarkana Col—HEW  
 Texas A & M Univ Col Station—HEW  
 Texas A & M Univ Ctrl Sys—HEW  
 Texas Arts & Indust Univ—HEW  
 Texas Christian Univ—HEW  
 Texas Col—HEW  
 Texas Lutheran Col—HEW  
 Texas Southern Univ—HEW  
 Texas Southmost Col—HEW  
 Texas Technological Col—HEW  
 Texas Wesleyan Col—HEW  
 Texas Womans Univ—HEW  
 Trinity Univ—HEW

Tyler Jr Col—HEW  
 Univ of Corpus Christi—HEW  
 Univ of Dallas—HEW  
 Univ of Houston—HEW  
 Univ of St Thomas—HEW  
 Univ of Texas Arlington—HEW  
 Univ of Texas at Austin—HEW  
 Univ of Texas at El Paso—HEW  
 Univ of Texas Ctrl Sys—HEW  
 Univ of Texas Medical Sch—HEW  
 Wayland Baptist Col—HEW  
 Weatherford Col—HEW  
 West Texas St Univ—HEW  
 Wharton County Jr Col—HEW  
 Wiley Col—HEW

#### Utah

Brigham Young Univ—HEW  
 Dixie Col—HEW  
 Univ of Utah—HEW  
 Utah St Univ—HEW  
 Weber St Col—HEW  
 Westminster Col—HEW

#### Vermont

Bennington Col—HEW  
 Castleton St Col—HEW  
 Champlain Col—HEW  
 Col of St Joseph the Prov—HEW  
 Goddard Col—HEW  
 Green Mountain Col—HEW  
 Johnson St Col—HEW  
 Lyndon St Col—HEW  
 Marlboro Col—HEW  
 Middlebury Col—HEW  
 Norwich Univ—HEW  
 St Michaels Col—HEW  
 Trinity Col—HEW  
 Univ of Vermont—HEW  
 Vermont Col—HEW  
 Vermont Tech Col—HEW  
 Windham Col—HEW

#### Virginia

Blue Ridge Comm Col—HEW  
 Bridgewater Col—HEW  
 Central Va Comm Col—HEW  
 Col of William and Mary—DOD  
 Eastern Mennonite Col—HEW  
 Emory & Henry Col—HEW  
 Ferrum Jr Col—HEW  
 Hampden-Sydney Col—HEW  
 Hampton Inst—HEW  
 Hollins Col—HEW  
 John Tyler Tech Col—HEW  
 Longwood Col—HEW  
 Lynchburg Col—HEW  
 Madison Col—HEW  
 Mary Baldwin Col—HEW  
 Marymount Col of Virginia—HEW  
 Northern Virginia Comm Col—HEW  
 Old Dominion Col—HEW  
 Radford Col—HEW  
 Randolph-Macon Col—HEW  
 Randolph-Macon Womas Col—HEW  
 Roanoke Col—HEW  
 Shenandoah Col—HEW  
 Southwest Virginia Jr Col—HEW  
 St Pauls Col—HEW  
 Sullins Col—HEW  
 Univ of Richmond—HEW  
 Univ of Virginia—HEW  
 Virginia Commonwealth Univ—HEW  
 Virginia Military Inst—HEW  
 Virginia Polytechnic Inst—HEW  
 Virginia St Col—HEW  
 Virginia Union Univ—HEW

Virginia Wesleyan Col—HEW  
 Virginia Western Comm Col—HEW  
 Washington & Lee Univ—HEW  
 Va Institute of Marine Sciences—DOD

#### Washington

Bellevue Comm Col—HEW  
 Big Bend Comm Col—HEW  
 Central Wash St Col—HEW  
 Centralia Col—HEW  
 Clark Col—HEW  
 Clover Park Comm Col—HEW  
 Columbia Basin Col—HEW  
 Eastern Wash St Col—HEW  
 Everett Jr Col—HEW  
 Fort Wright Col Holy Names—HEW  
 Gonzaga Univ—HEW  
 Grays Harbor Col—HEW  
 Green River Comm Col—HEW  
 Highline Col—HEW  
 Lower Columbia Col—HEW  
 Northwest Col—HEW  
 Olympic Col—HEW  
 Pacific Lutheran Univ—HEW  
 Peninsula Col—HEW  
 Seattle Comm Col—HEW  
 Seattle Pacific Col—HEW  
 Seattle Univ—HEW  
 Shoreline Comm Col—HEW  
 Skagit Valley Col—HEW  
 Spokane Comm Col—HEW  
 St Martins Col—HEW  
 Tacoma Comm Col—HEW  
 Univ of Puget Sound—HEW  
 Univ of Washington—HEW  
 Walla Walla Col—HEW  
 Walla Walla Comm Col—HEW  
 Washington St Univ—HEW  
 Wenatchee Valley Col—HEW  
 Western Wash St Col—HEW  
 Whitman Col—HEW  
 Whitworth Col—HEW  
 Yakima Valley Col—HEW

#### West Virginia

Alderson-Broaddus Col—HEW  
 Beckley Col—HEW  
 Bethany Col—HEW  
 Bluefield St Col—HEW  
 Concord Col—HEW  
 Davis & Elkins Col—HEW  
 Fairmont St Col—HEW  
 Glenville St Col—HEW  
 Marshall Univ—HEW  
 Morris Harvey Col—HEW  
 Ohio Valley Col—HEW  
 Salem Col—HEW  
 Shepherd Col—HEW  
 St Marys Hosp Sch of Nursing—HEW  
 West Liberty St Col—HEW  
 West Virginia Inst Tech—HEW  
 West Virginia St Col—HEW  
 West Virginia Univ—HEW  
 West Virginia Wesleyan Col—HEW  
 Wheeling Col—HEW

#### Wisconsin

Alverno Col—HEW  
 Barron County Tchrs Col—HEW  
 Beloit Col—HEW  
 Cardinal Stritch Col—HEW  
 Carroll Col—HEW  
 Carthage Col—HEW  
 Columbia County Tchrs Col—HEW  
 Concordia Col—HEW  
 Dodge County Tchrs Col—HEW

Dominican Col—HEW  
 Edgewood Col Sacred Heart—HEW  
 Holy Family Col—HEW  
 Juneau County Tchrs Col—HEW  
 Lakeland Col—HEW  
 Lawrence Univ—HEW  
 Layton Sch of Art—HEW  
 Madison Voc Tech Sch—HEW  
 Marian Col of Fond du Lac—HEW  
 Marquette Univ—HEW  
 Milton Col—HEW  
 Milwaukee Inst of Tech—HEW  
 Milwaukee Sch of Eng—HEW  
 Mt Mary Col—HEW  
 Mt Senario Col—HEW  
 Mt St Paul Col—HEW  
 Northland Col—HEW  
 Racine-Kenosha Tchrs Col—HEW  
 Richland County Tchrs Col—HEW  
 Ripon Col—HEW  
 Sauk County Tchrs Col—HEW  
 St Laurence Sem—HEW  
 St Norbert Col—HEW  
 Stout St Univ—HEW  
 Taylor County Tchrs Col—HEW  
 Univ of Wisc Madison—HEW  
 Univ of Wisc Milwaukee—HEW  
 Univ of Wisc Central Sys—HEW  
 Univ of Wisc Ctr—HEW  
 Vernon County Tchrs Col—HEW  
 Viterbo Col—HEW  
 Waushara County Tchrs Col—HEW  
 Wisc Conservatory—HEW  
 Wisc St Univ Central Sys—HEW  
 Wisc St Univ Stevens Pnt—HEW  
 Wisc St Univ Eau Claire—HEW  
 Wisc St Univ La Crosse—HEW  
 Wisc St Univ Oshkosh—HEW  
 Wisc St Univ Platteville—HEW  
 Wisc St Univ River Falls—HEW  
 Wisc St Univ Superior—HEW  
 Wisc St Univ Whitewater—HEW

#### Wyoming

Casper Col—HEW  
 Goshen County Comm Col—HEW  
 Northern Wyoming Comm Col—HEW  
 Northwest Comm Col—HEW  
 Univ of Wyoming—HEW  
 Western Wyoming Comm Col—HEW

#### Guam

Univ of Guam Int

#### Puerto Rico

Catholic Univ of PR—HEW  
 Col of the Sacred Heart—HEW  
 Inter Amer Univ of PR—HEW  
 Puerto Rico Jr Col—HEW  
 Univ of PR Mayaguez—HEW  
 Univ of PR Rio Piedras—HEW  
 Univ of PR San Juan—HEW

#### Virgin Islands

Col of Virgin Islands Int

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Wednesday  
December 5, 1979

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**Part VI**

**Occupational Safety  
and Health Review  
Commission**

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**New Rules of Procedure and Revisions  
to Existing Rules of Procedure**

## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

## 29 CFR Part 2200

## Rules of Procedure; Final Action

**AGENCY:** Occupational Safety and Health Review Commission.

**ACTION:** Final action adopting both new rules of procedure and revisions to existing rules of procedure.

**SUMMARY:** The Occupational Safety and Health Review Commission adopts revisions to certain of its rules of procedure, a new procedural rule governing briefs as well as a new subpart governing simplified proceedings. The amendments and the new rule on briefs are intended to clarify and expedite Commission proceedings for all parties. The new subpart affords parties an opportunity to participate in a less costly and more expeditious type of adjudicative hearing. **EFFECTIVE DATES:** Except for the new subpart, Subpart M, the adopted revisions will be effective on January 1, 1980. Subpart M will be effective on March 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Gombar, General Counsel, 1825 K Street, N.W., Suite 1101, Washington, D.C. 20006; 202-634-4015.

**SUPPLEMENTARY INFORMATION:** The Occupational Safety and Health Review Commission published a Notice of Proposed Rulemaking and invited public comments at 43 FR 36854 (August 18, 1978). Written comments were received from a wide range of interested persons and organizations. In addition, the Review Commission held two public hearings on its rulemaking proposal, one in Chicago, Illinois on October 30, 1978, and the other in Washington, D.C. on February 8, 1979. On July 26, 1979, the Review Commission held an open meeting to consider the record in this matter and to vote on the adoption of the proposal.

The following summary sets forth both the results and an explanation of the Review Commission's action on July 26, 1979:

**Section 2200.11 Protection of trade secrets and other confidential information.**

Many comments were received opposing the proposed revocation of § 2200.11(b) that allows interlocutory appeal as of right from any decision concerning trade secrets. These comments expressed concern that the elimination of § 2200.11(b) would result in a diminished protection of trade

secrets. The Commission finds these concerns to be unwarranted. In *Owens-Illinois, Inc.*, 78 OSAHRC 105/C8, 6 BNA OSHC 2162, 1978 CCH OSHD ¶23,218 (No. 77-648, 1978), the Commission held that the Secretary of Labor may use experts who are not federal employees during discovery inspections of areas containing trade secrets. At the same time, however, the Commission stated that when an employer establishes that it possesses a trade secret which is likely to be revealed by the entry of the non-federal expert, the presiding Judge shall enter a protective order conforming with certain requirements set forth in the decision. Since the *Owens-Illinois* decision, the Commission finds that the vast majority of cases before it on § 2200.11(b) interlocutory appeals can be resolved by the entry of an *Owens-Illinois* protective order.

The revocation of § 2200.11(b) does not mean that the Commission will no longer hear interlocutory appeals concerning trade secret issues, but rather, that the Commission will exercise its judgment to determine if such matters present issues appropriate for consideration as an interlocutory appeal. Moreover, the Commission now provides for the protection of trade secrets through the adoption of a new provision granting an automatic stay of proceedings when a party seeks certification of an interlocutory appeal involving a trade secret issue. This provision, § 2200.75(e), is discussed *infra*.

Accordingly, with the development of the *Owens-Illinois* protective order as well as the changes made in Rule 75, the Commission finds it appropriate to delete § 2200.11(b) as proposed.

**Section 2200.30. Form**

Section 2200.30 sets forth the form for pleadings and motions filed with the Commission. The Commission finds it necessary to revise § 2200.30 by adding a new subsection (d) which requires that citations to court decisions include the name of the respondent before the Commission. For example: *Brennan v. OSHRC (Vy Lactos Laboratories, Inc.)*, 494 F. 2d 460 (8th Cir. 1974). The old subsection (d) has been redesignated subsection (e), and has been revised to conform with the amendment.

Many parties before the Commission cite to court cases without using the name of the respondent in the Commission proceeding. For example, the *Vy Lactos* case cited above often appears in the following form: *Brennan v. OSHRC*, 494 F. 2d 460 (8th Cir. 1974). Because of the large number of cases that can be so designated, citing a case

in such a manner makes the examination of pleadings and other documents particularly difficult. Moreover, on many occasions, after several court cases have been cited in such a manner (omitting reference to the Commission respondent), a party will cite one of the court cases as *Brennan v. OSHRC, supra*. On these occasions, it becomes very difficult for the Commission to determine what case is being cited, especially if several of the previously cited cases can stand for the referenced proposition.

Although the change to § 2200.30 was not included in the August 18, 1978 notice of proposed rulemaking, the Commission finds it appropriate to adopt the revision at this time because it will benefit both the Commission and the parties.

**Section 2200.100a (formerly § 2200.50) Withdrawal of notice of contest.**

The revision of § 2200.50, and its redesignation as § 2200.100a, engendered very little comment. The rule, as amended, would allow a party to withdraw its notice of contest at any stage of the proceedings, as long as the withdrawing party states that the withdrawal was not induced by a promise of any other party. Section 2200.100, settlement, discussed *infra*, will apply whenever a motion to withdraw is predicated on a promise of another party.

The negative comments on this rule opposed the additional complications and delays placed on parties seeking to end their case. The Commission finds that the new rule imposes no new burden on parties who merely wish to withdraw their notice of contest. Accordingly, the Commission adopts the revision with only a minor, non-substantive wording change from the revision originally proposed.

**Section 2200.51. Prehearing conference.**

The comments received on the proposed amendment to § 2200.51 were virtually all favorable. The amendment, which inserts the word "settlement" into paragraph (a) of § 2200.50, is intended to apprise parties that settlement is one of the matters to be considered at a prehearing conference. One comment expressed concern that the rule might be interpreted as limiting settlements to the time before a hearing. Although the revision is designed to encourage prehearing settlement, it is not the intent of the Commission to limit settlement discussions to any particular stage in the proceedings. See § 2200.100, discussed *infra*. Viewing the rules of procedure as a whole, the Commission finds it unnecessary to modify the



proposed rule. Accordingly, the rule is adopted as proposed.

#### *Section 2200.75. Interlocutory Appeals.*

Many comments were received in response to the proposed revisions of § 2200.75. Although largely favorable, several comments noted problem areas in the proposed revision. These comments have resulted in the modification of several subsections in the final version of the rule.

Paragraph (a) states that a Judge's interlocutory ruling may be appealed to the Commission only in the manner prescribed by § 2200.75. No comments were received regarding this subsection, and it is adopted as originally proposed.

Paragraph (b) sets forth the procedures for obtaining certification to the Commission of a Judge's interlocutory ruling. One comment opposed paragraph (b)(2), which empowers the Commission to decline a certification, because of the time lost by the parties in litigating a certification question that is ultimately refused by the Commission. The Commission finds, however, that to require the parties to further litigate an improvidently granted certification would result not only in a further time loss for the parties, but also in an inappropriate allocation of Commission resources. Accordingly, paragraph (b) as originally proposed is adopted in its entirety.

Paragraph (c) sets forth the requirements for seeking interlocutory appeal by the Commission after a Judge has denied a request for certification. Several comments were received criticizing paragraph (c)(3), which requires that there be a need for resolving the law regarding the issue raised on appeal. The comments note that the subsection renders the criteria for granting an interlocutory appeal by the Commission more stringent than those for certification of the appeal by a Judge. The Commission finds that the comments have considerable merit. Moreover, the Commission finds that there may be cases where clear error has been committed and interlocutory appeal is desirable, even though the error does not concern an unresolved legal issue. Accordingly, paragraph (c)(3) has been deleted from the promulgated version of the rule.

Comments also were received criticizing the five-day limit for requesting certification under paragraph (c). The comments note that the time periods are too short. The Commission finds, however, that interlocutory appeals must be taken expeditiously and not be permitted to unduly delay the litigation and disposition of cases. Moreover, all that is required within the

five-day time limit is the filing of a petition. Supporting memoranda and supplemental documents, if any, may be filed promptly thereafter.

Comment was received suggesting that each individual Commissioner be empowered to grant petitions for interlocutory appeal. The Occupational Safety and Health Act of 1970, however, provides that official action of the Commission can be taken only on the affirmative vote of at least two members, 29 U.S.C. 661(e). Thus, there is some question as to the Commission's authority to promulgate a rule allowing a petition for interlocutory appeal to be granted by the action of only one Commissioner. While an individual Commissioner may grant a petition for discretionary review of a Judge's decision pursuant to 29 U.S.C. 661(i), that statutory authority does not extend to other official actions on cases before the Commission. Therefore, with the exception of paragraph (c)(3), paragraph (c) is adopted as proposed.

Paragraph (d) states that the Commission's refusal to entertain an interlocutory appeal shall not preclude a party from taking exception to the Judge's interlocutory ruling in a petition for discretionary review. The comments on this subsection were overwhelmingly favorable. One comment, however, suggested that a similar provision be included concerning the effect of a party's failure to petition the Commission for interlocutory appeal of a Judge's ruling that denies certification. The Commission finds that the comment has merit, and such a provision has been added to paragraph (d). Paragraph (d), with the added provision, is adopted.

Paragraph (e) provides that the filing with the Judge of a request to certify an interlocutory appeal of a ruling concerning an alleged trade secret, or, if the certification is denied, the filing of a petition for interlocutory appeal with the Commission, shall stay the effect of the ruling until the Commission either denies the petition, declines the certification, or rules on the appeal. The purpose of this provision is to maintain the same protection for trade secrets formerly provided by § 2200.11(b) while allowing the Commission the opportunity to more closely examine the merits of such requests for interlocutory appeal.

The Commission received comments urging that a provision be included providing for an automatic stay following a Judge's denial of a request to certify an interlocutory appeal concerning an alleged trade secret in order to protect the claimed trade secret during the five-day period that the party has to prepare a petition to the

Commission from the Judge's ruling. Such a provision has been included in the final version of the rule, but it has been modified to require that a party must request the stay. Upon request, the stay issues as of right. By requiring that the party request the stay, the Commission avoids the possibility that a stay would automatically be in effect following a Judge's denial of certification even though no party intends to petition from the Judge's ruling.

The Commission has carefully examined paragraph (e) in light of our deletion of § 2200.11(b). We find that paragraph (e), as modified, provides protection for trade secret matters equal to the protection afforded by the now-deleted § 2200.11(b). Accordingly, paragraph (e), as modified is adopted.

Finally, paragraph (f) provides that should the Commission desire briefs on issues raised by an interlocutory appeal, notice shall be given to the parties. No comment was received regarding this paragraph. Except for minor, nonsubstantive changes, the paragraph is adopted as proposed.

#### *Section 2200.90 Decision of the Judges; and Section 2200.91 Petitions for Discretionary Review*

Comments received regarding §§ 2200.90 and 91 were overwhelmingly opposed to the proposed revisions. In light of these comments, the Commission has decided to retain the current §§ 2200.90 and 91 and pending further study.

#### *Redesignation of Sections in Subpart F*

The Commission had decided that the sections in subpart F of 29 CFR Part 2200 should be renumbered to eliminate the cumbersome a and b designations. Therefore, the Commission has renumbered §§ 2200.91a, 91b, 92, and 93 as §§ 2200.92, 93, 94, and 95, respectively.

#### *Section 2200.93 (proposed as § 2200.91b) Briefs before the Commission*

The Comments regarding the Commission's new briefing rule were overwhelmingly favorable. Many of the comments contained valuable suggestions, which have resulted in the modification of several provisions of the proposed rule.

Paragraph (a) provides that the Commission ordinarily will request briefs on issues before it. One comment queried whether the provision was intended to limit the right of the parties to file briefs. While the Commission expects that it will request briefs in almost all cases, there are cases in which briefs are not necessary. For example, the Commission has found that

in some interlocutory appeals briefs are not necessary. Thus, the intent of subsection (a) is not to limit the right of the parties to file briefs, but to focus and conserve the resources of both the parties and the Commission.

Another comment suggested that *pro se* respondents should be permitted to file less formal statements of position in lieu of briefs. The Commission agrees with the suggestion and has added such a provision to paragraph (a) which would apply to all parties. Paragraph (a), as modified, is adopted.

Paragraph (b) sets forth the time sequence for filing briefs. One comment suggested that briefs be requested at the same time the case is directed for review. The Commission has found, however, that briefs filed closer to the actual time of case disposition are more useful. Thus, the briefing schedule will be commenced not by the direction for review, but by a "briefing notice."

In addition to the comments, the Commission, upon reexamination, finds that the provision in paragraph (b) requiring that initial briefs be filed within 40 days after receipt of the briefing notice could prove cumbersome in affording the Commission and the other parties adequate notice of a brief's due date. This is so because of difficulty in determining when the briefing notice actually was received. Accordingly, the Commission has revised the rule to require that initial briefs be filed within 40 days of the date of the briefing notice.

The Commission also finds that the rule, as proposed, did not provide adequately for the situation where the petitions for discretionary review of two or more parties are granted in the same case. Therefore, an appropriate provision, paragraph (b)(2), has been adopted to clarify such situations. Moreover, paragraph (b) has been reorganized into several paragraphs, each paragraph setting forth the brief filing sequence for one of the several ways a case may appear before the Commission. As modified, paragraph (b) is adopted.

Paragraph (c) sets forth the rule on motions for extension of time for filing a brief. Several comments questioned the requirement that motions for extensions of time filed by attorneys be verified or supported by affidavits. The comments viewed the requirement as an unnecessary and unequal burden. The Commission finds that the comments have merit and, accordingly, has deleted the provision.

The Commission also has revised the requirement that motions for extensions of time indicate "what assurance there is that the brief will be filed within the requested extension." The Commission

finds that it is sufficient to require "an assurance" that the brief will be filed within the extension requested.

Paragraph (c), as modified, is adopted.

No comments were received regarding the remaining subsections of the briefing rule, which set forth the consequences of late filing of briefs, the maximum length of briefs, and a requirement for a table of contents. A new paragraph (g) has been added indicating that the Commission may decline to accept a brief which is either late filed or in excess of the maximum length. Finally, paragraph (h) has been changed to require that five, rather than four, copies of a brief shall be filed. Paragraphs (d), (e), (f), (g) and (h), as modified, are adopted.

#### *Section 2200.100 Settlement*

The proposed revision of § 2200.100 extensively amends the prior rule on settlement. The revised rule is designed to afford all parties the opportunity to settle a dispute and to fully apprise parties of the requirements for settlement. There were a significant number of comments and, in general, they were sharply divided.

Paragraph (a) indicates the general policy of the Commission that "Settlement is permitted at any stage of the proceedings." There were no comments filed specifically on this paragraph. Thus, paragraph (a) is adopted as proposed.

Paragraph (b) sets forth the requirements for settlement. The comments on this subsection, in general, made the point that the requirements are too "cumbersome." We do not agree. The requirements provide the Commission with the minimum information necessary to determine if the proposed settlement "is consistent with the provisions and objectives of the Act." Furthermore, the requirements are not new. They are simply a codification of the Commission's early decision in *Dawson Brothers-Mechanical Contractors*, 75 OSAHRC 5/B8, 1 BNA OSHC 1024, 1971-73 CCH OSHD ¶15,039 (No. 12, 1972). Accordingly, except for minor, non-substantive wording changes, paragraph (b) is adopted as proposed.

Paragraph (c) contains the requirements for filing, service, and notice of a proposed settlement. There were many negative comments on this subsection. Many of the comments opposed to the revisions took particular exception to the requirement that at least ten days elapse after a settlement proposal is served on affected employees before the proposal can be approved. The comments observed that this provision would preclude last

minute settlements. Although the Commission recognizes that the revised rule would discourage settlements on "the court house steps," it finds that the 10 day requirement is necessary to protect employee rights. For example, under § 2200.20 affected employees may elect party status at any time before the commencement of the hearing. Therefore, a settlement proposal entered into prior to the hearing and approved without giving affected employees an opportunity to be heard would deprive the affected employees of their right to participate as parties in the resolution of the case. The rule does not prohibit last minute settlements, but merely delays their approval. It should be noted, however, that there is no ten day delay requirement if the settlement is going to be disapproved for a reason apart from any objections or comments that may be filed by affected employees.

A comment in favor of the proposed rule expressed concern that, as drafted, the rule could be interpreted to mean that affected employees cannot participate in the drafting of a settlement proposal, and that employee comments to a settlement proposal need not be considered in the decision to approve the proposed settlement. The Commission would note, simply, that affected employees who have elected party status are entitled to meaningful participation in the settlement process. *Reynolds Metals Company*, 7 BNA OSHC 1042, 1978-79 CCH OSHD ¶23,010 (No. 78-2485, 1979). Moreover, it is the purpose of the ten day delay provision to provide an opportunity for affected employees to file comments so that their views will be considered in the final disposition of the settlement proposal. See *ITT Thompson Industries, Inc.*, 78 OSAHRC 70/D10, 6 BNA OSHC 1944, 1978 CCH OSHD ¶22,944 (Nos. 77-4174 and 77-4175, 1978).

In order to clarify the role intended for the ten day delay provision, the Commission has modified paragraph (c) to explicitly prohibit the approval of a settlement proposal until at least 10 days following service of the settlement proposal on affected employees. Paragraph (c), as modified, is adopted.

#### *Subpart M—Simplified Proceedings*

Although most of the comments supported the concept of simplified proceedings, many expressed concern that the rules would not accomplish their objective. Several comments predicted that simplified proceedings would not reduce significantly the time needed to reach a decision on the merits. Other comments expressed concern that simplified proceedings would result in an abridgement of party

rights by limiting transcripts, discovery, and interlocutory appeals.

The Commission finds merit in many of the comments and has modified many of the rules accordingly. Nevertheless, because of the need to have an effective simplified procedure, the Commission finds that subpart M should be adopted only on an experimental basis, for a period of one year, to enable the Commission to evaluate the rules and make any additional changes that may become necessary. Thus, a preamble has been added setting forth the experimental period.

#### *Section 2200.200 Purpose*

This rule sets out the purpose of simplified proceedings and summarizes some of the more important differences between simplified and conventional procedures. One significant revision in Rule 200 from the rule originally proposed is the elimination of § 2200.200(b)(2) which made transcripts optional. This proposal found significant opposition and the Commission has decided to delete that provision for the reasons discussed under §§ 2200.207, 208, and 209.

Two comments opposed the nonapplicability of the Federal Rules of Evidence. One of the comments cautioned that the provision requires employers to give up their right to have a violation proven by competent evidence. That comment also opined that the provision is adverse to *pro se* respondents because they lack the skill to effectively cross-examine. It was suggested that there be a rule requiring judges to examine witnesses to determine if their testimony is reliable.

The Commission adheres to its original proposal not to apply the Federal Rules of Evidence to simplified proceedings. The Commission finds that the ability of a *pro se* party to defend itself will be enhanced by the elimination of the Federal Rules since the party will not be burdened by evidentiary rules of which it has no knowledge. Furthermore, simplified proceedings will be conducted in accordance with the Administrative Procedure Act that allows judges to exclude "irrelevant, immaterial, or unduly repetitious evidence" and requires decisions to be supported by "reliable, probative, and substantial evidence." 5 U.S.C. 556(d). Thus, the Commission finds that the nonapplicability of the Federal Rules of Evidence will not adversely affect any party. Section 2200.200, as modified, is adopted.

#### *Section 2200.201 Application*

Most of the comments on § 2200.201 were concerned that requests for simplified proceedings are restricted to parties who file a notice of contest or petition for modification of abatement period. The comments generally favored a provision enabling all parties to either request or object to simplified proceedings.

Considering the significant differences between simplified proceedings and our more conventional procedure, the Commission finds that the comments have much merit. Thus, this rule and § 2200.203 have been modified to allow all parties to both request and object to simplified proceedings.

One comment suggested that the Commission and the Judges be given the right to determine whether a case is appropriate for simplified proceedings. The Commission finds that the limitations on the availability of simplified proceedings set forth in § 2200.202, and the ability of any party to preclude the institution of simplified proceedings by filing an objection, will provide a sufficient screening process. Therefore, the approval of the Commission or a Judge is not necessary. Section 2200.201, as modified, is adopted.

#### *Section 2200.202 Eligibility for simplified proceedings*

Comments expressed concern that § 2200.202 did not make provision for the exclusion of complex non-health cases from simplified proceedings. The Commission recognizes that many non-health cases may be too complex for simplified proceedings, but is confident that the right of any party, including the Secretary, to preclude simplified proceedings in such cases is an adequate safeguard at this time.

It was also suggested by some comments that simplified proceedings be made available in health cases. It is the experience of the Commission that, in general, health cases are complex and, thus, should be excluded automatically from simplified proceedings. Section 2200.202 is adopted as proposed.

#### *Section 2200.203 Request for simplified proceedings*

Most of the comments on this rule suggested that either all parties be able to request simplified proceedings, or that any party be able to preclude their use. As mentioned above in discussing § 2200.201, the Commission finds merit in these comments and § 2200.203 has been revised accordingly.

It was suggested that there be a provision for revoking an election for simplified proceedings. The Commission finds that such a provision would significantly undercut the benefits of subpart M and would encourage parties to make unwarranted elections knowing that they could later revoke.

One comment suggested that the 10 day period for deciding whether to elect simplified proceedings is too long because it could cause the Solicitor of Labor to draft and file a complaint needlessly. Another comment argued that the 10 day period is too short to make an informed choice on whether to elect simplified proceedings. On balance, the Commission finds that 10 days is an appropriate period and has retained it.

Finally, it was suggested that a copy of subpart M, simplified proceedings, be forwarded automatically to affected employees. The Commission notes, simply that these rules will be available to the public on the same basis as the Commission's present rules of procedure pamphlet. There will, however, be a new publication to explain the new simplified proceedings. This new publication will accompany any distribution of the rules for simplified proceedings.

As previously noted, § 2200.203 has been revised to allow any party to elect or object to simplified proceedings. The mechanism for electing simplified proceedings, renumbered § 2200.203(a), remains essentially unchanged. Thus, within 10 days of the notice of docketing, any party can elect simplified proceedings by filing a statement to that effect with the Review Commission's Executive Secretary. A new § 2200.203(b) has been added setting forth the procedure for raising objections. Under § 2200.203(b)(2), a party has 15 days from service of the request to object to the election. As with requests, all objections must be served in the manner prescribed for notices of contest under § 2200.7.

The Commission also has added § 2200.203(c). This rule states that when an election is made and the time for objections has expired, the Commission will notify all parties that simplified proceedings are in effect. Similarly, when a timely objection is received, the Commission will notify all parties that the case will proceed under conventional procedures. Section 2200.203, as modified, is adopted.

#### *Section 2200.204 Filing of pleadings*

Several comments opposed § 2200.204(a), which eliminates the complaint and answer. It was argued that jurisdictional issues are usually

resolved by these documents. It remains the position of the Commission, however, that in most cases, jurisdictional questions can be resolved very simply at the conference-hearing.

The Commission also received inquiries concerning whether the Secretary could amend a citation during simplified proceedings. The Commission finds that such amendments are permitted under simplified proceedings if presented in the form of a motion under Rule 15 of the Federal Rules of Civil Procedure. Finally, the Commission has modified this rule to clarify the procedures to be followed if a complaint or response is filed prior to the institution of simplified proceedings.

The Commission received numerous comments on § 2200.204(b) which requires that parties represented by counsel file a statement of affirmative defenses if such defenses are to be raised. Those comments indicated the following concerns: (a) that the rule discriminates against parties represented by counsel, (b) that the failure of a *pro se* party to file a statement of affirmative defenses might be seen by a reviewing court as a waiver of those defenses, (c) that there is no time limit for a *pro se* party to raise such defenses, and (d) that the rule may be read to preclude a *pro se* party from raising affirmative defenses. The Commission finds that these comments and concerns have merit, and finds it appropriate to delete § 2200.204(b).

Because of the desire to keep these proceedings as simple as possible, the Commission has retained § 2200.204(c) which, with some modification, has been redesignated § 2200.204(b). This rule discourages, but does not prohibit, the filing of motions concerning matters that could have been discussed adequately among the parties prior to the conference-hearing. Section 2200.204, as modified, is adopted.

#### *Section 2200.205 Discussion among parties*

Some comments recommended that if an employee representative elects party status after the other parties have narrowed the issues through discussions, the employee representative should not be bound by any agreement concerning the issues. The Commission intends that no discussions should take place unless all parties to the proceedings are included. The Commission finds that this rule is a vital element of simplified proceedings, and has modified the rule by expanding the range of subjects to be discussed among the parties. Section 2200.205, as modified, is adopted.

#### *Section 2200.206 Conference-Hearing*

The comments on § 2200.206 indicated that the nature of the conference-hearing was misunderstood. The Commission has redrafted § 2200.206 to clarify its intention that the conference-hearing have two separate segments, although possibly held on the same day. The new rule governing the hearing, § 2200.206(c), now indicates clearly that the hearing shall be in accordance with the Administrative Procedure Act, 5 U.S.C. 554. In response to comments questioning whether the Judge would have the discretion during the hearing to prohibit oral or documentary evidence, the rule had been clarified to indicate that if there is a hearing, such evidence shall be received. The Judge may of course, exclude irrelevant or unduly repetitious evidence.

The Commission also has revised the § 2200.206 requirement that parties filing briefs notify the Judge of that fact at the conference-hearing. Rather than stating that written argument may not be filed without notification, the new rule states that parties wishing to file briefs "shall" notify the Judge. The Commission finds this change will give the Judges the necessary discretion to deal with the parties during the briefing period. Section 2200.206, as modified, is adopted.

#### *Sections 2200.207, 2200.208, and 2200.209*

There was significant opposition to §§ 2200.207, 208, and 209. The proposed rules would have made official transcripts optional at the discretion of the Judge, and required that the Judge prepare a summary of the oral proceedings in the absence of a transcript. The comments indicated concern that, without an official transcript, it would be difficult to obtain review of a Judge's decision. Other comments opined that the Judge's note-taking would interfere with his or her ability to control the hearing, and that the procedures for resolving disputes in the Judge's summary would result in additional delay and expense. Several comments observed that the provisions would be discriminatory by favoring those able to afford to purchase a transcript without offsetting this advantage by making an official transcript available to less affluent parties. Several comments suggested that the elimination of transcripts would not result in a savings to the Commission.

The Commission finds much merit in these comments, and has decided to delete §§ 2200.207, 208, and 209. In their place, the Commission is adopting § 2200.207 that requires a reporter to be

present at the conference-hearing. In all cases, a reporter will prepare an official verbatim transcript of the hearing.

The Commission also has drafted § 2200.208, a new rule, which provides that a Judge's decision shall be consistent with the requirements of § 2200.90. The new rule also makes it clear that after the issuance of the Judge's decision, the case shall proceed in the conventional manner. Therefore, the parties may petition for discretionary review under § 2200.91.

#### *Sections 2200.9, 2200.210, and 2200.211*

The Commission has divided the proposed § 2200.210 into separate rules. Section 2200.209 is now entitled "Discovery" and is identical to proposed § 2200.210(a) with the modification that discovery no longer need be predicated on the results of a prehearing conference. Section 2200.210(b) has been redesignated § 2200.210 and § 2200.210(c) redesignated § 2200.211. Section 2200.210 no longer eliminates § 2200.72 (evidence) and § 2200.76 (briefs) because the changes to the simplified rules make their exclusion no longer necessary.

Several comments objected to the restriction placed on discovery and the prohibition of interlocutory appeals. It remains the position of the Commission, however, that to have an effective simplified proceeding these procedures must be restricted. It is expected that simplified proceedings will be used in cases where the factual and legal issues are relatively uncomplicated. Thus, if a party believes that its case would require discovery or is likely to involve Judge's rulings that may require interlocutory appeals, that party should not request simplified proceedings, and should issue an objection if any other party files a request. The Commission stresses that this new subpart *does not require* simplified proceedings in any case. Sections 2200.209, 2200.210, and 2200.211 are adopted.

While the great majority of the rule changes in this action are adopted by a unanimous Commission, there are minority views in certain instances. For those interested, statements of these minority positions are available for examination at the Commission's offices in Washington, D.C. Contact Robert C. Gombar, General Counsel, for further information.

Under the authority of section 12(g) of the Occupational Safety and Health Act, Pub. L. 91-596 (29 U.S.C. 661(f)), the Commission amends 29 CFR Part 2200 in the manner set forth below.

1. Section 2200.11 is amended by deleting paragraph (b) and by deleting the designation (a) in front of remaining

paragraph (a). As revised, § 2200.11 reads as follows:

**§ 2200.11 Protection of trade secrets and other confidential information.**

Upon application by any person, in a proceeding where trade secrets or other matters may be divulged the confidentiality of which is protected by 18 U.S.C. 1905, the Judge shall issue such orders as may be appropriate to protect the confidentiality of such matters.

2. Section 2200.30 is revised to add a new paragraph (d). The entire rule with the amendment reads as follows:

**§ 2200.30 Form.**

(a) Except as provided herein, there are no specific requirements as to the form of any pleading. A pleading is simply required to contain a caption sufficient to identify the parties in accordance with rule 31 of this subpart, which shall include the Commission's docket number, if assigned, and a clear and plain statement of the relief that is sought, together with the grounds therefor.

(b) Pleadings and other documents (other than exhibits) shall be typewritten, double spaced, on letter size opaque paper (approximately 8½ inches by 11 inches). The left margin shall be 1½ inches and the right margin 1 inch. Pleadings and other documents shall be fastened at the upper left corner.

(c) Pleadings shall be signed by the party filing or by his representative. Such signing constitutes a representation by the signer that he has read the document or pleading, that to the best of his knowledge, information and belief the statements made therein are true, and that it is not interposed for delay.

(d) When a court decision is cited in which the first-listed parties on each side are the Secretary of Labor (or the name of a particular Secretary of Labor) and the Commission, the citation shall include in parenthesis the name of the respondent in the Commission proceeding. For example: *Brennan v. OSHRC (Vy Lactos Laboratories, Inc.)*, 494 F.2d 460 (8th Cir. 1974).

(e) The Commission may refuse for filing any pleading or document which does not comply with the requirements of paragraphs (a), (b), (c) and (d) of this section.

3. Section 2200.50 is redesignated § 2200.100a and is revised to read as follows:

**§ 2200.100a Withdrawal of notice of contest.**

At any stage of the proceedings, a party may move to withdraw its notice

of contest or any portion of its notice of contest. The motion shall include a statement that a promise of another party has not led to the motion to withdraw the notice of contest. The rule on settlements, § 2200.100, shall apply whenever a promise of another party has led to the party's motion to withdraw.

4. Section 2200.51(a) is revised to read as follows:

**§ 2200.51 Prehearing conference.**

(a) At any time before a hearing, the Commission or the Judge, on their own motion or on the motion of a party, may direct the parties or their representatives to exchange information or to participate in a prehearing conference to consider settlement or matters which will tend to simplify issues or expedite the hearing.

\* \* \* \* \*

5. Section 2200.75 is revised to read as follows:

**§ 2200.75 Interlocutory appeals.**

(a) *Generally.* A Judge's interlocutory ruling may be appealed to the Commission only in the manner prescribed by this rule.

(b) *Certification.* A party desiring to appeal from an interlocutory ruling shall file with the Judge a written request for certification of the appeal. The request and supporting documents shall be filed within 5 days after receipt of the Judge's ruling from which appeal is sought. Responses to the request, if any, shall be filed within 5 days after service of the request. The Judge shall certify an interlocutory appeal when the ruling involves an important question of law or policy about which there is substantial ground for difference of opinion and an immediate appeal of the ruling may materially expedite the proceedings.

(1) *Procedure after certification.* Following certification, the Judge shall forward to the Executive Secretary the request for certification and supporting documents, responses filed by the other parties, the ruling from which appeal is taken, a copy of relevant portions of the record, and the Judge's order certifying the appeal.

(2) *Acceptance of certification—discretionary.* The Commission at any time may decline to accept a certification.

(c) *Petition for interlocutory appeal.* Within 5 days following the receipt of a Judge's order denying certification, a party may file with the Commission a petition for interlocutory appeal. Responses to the petition, if any, shall be filed within 5 days following service of the petition. The Commission shall grant a petition for interlocutory appeal

only in exceptional circumstances where it finds (1) that the appeal satisfies the criteria for certification of an appeal set forth in paragraph (b) of this section; and (2) that there is a substantial probability of reversal.

(d) *Denial without prejudice.* The Commission's action in declining to accept a certification or denying a petition for interlocutory appeal shall not preclude a party from raising an objection to the Judge's interlocutory ruling in a petition for discretionary review. A party whose request for certification of an interlocutory appeal is denied by a Judge and who elects not to file a petition for interlocutory appeal with the Commission shall not be precluded from raising in a petition for discretionary review an objection to the ruling from which interlocutory appeal was sought.

(e) *Stay.* (1) *Trade secret matters.* The filing with a Judge of a request to certify an interlocutory appeal of a ruling concerning an alleged trade secret shall stay the effect of the ruling: (i) until the Judge denies the request; or (ii) if the request is granted, until the Commission rules on the appeal or declines to accept the certification. In the event such a request is denied, the Judge, upon motion of the requesting party, shall stay for a period of 5 days the effect of the ruling from which appeal was sought in order to allow the party to petition the Commission for interlocutory appeal of the ruling. The filing with the Commission of a petition for interlocutory appeal of a ruling concerning an alleged trade secret shall stay the effect of the ruling until the Commission denies the petition or rules on the appeal.

(2) *Other cases.* In all other cases, the filing or granting of a request to certify an interlocutory appeal, or the filing or granting of a petition for interlocutory appeal, shall not stay a proceeding or the effect of a ruling unless otherwise ordered.

(f) *Briefs.* Should the Commission desire briefs on the issues raised by an interlocutory appeal, it shall give notice to the parties. See § 2200.93 Briefs before the Commission.

**§§ 2200.91a, 2200.91b, 2200.92, and 2200.93 [Redesignated]**

6. Sections 2200.91a, 91b, 92, and 93 are redesignated sections 2200.92, 93, 94, and 95, respectively.

7. Subpart F is amended by adding a new § 2200.93, that reads as follows:

**§ 2200.93 Briefs before the Commission.**

(a) *Requests for briefs.* The Commission ordinarily will request the parties to file briefs on issues before the



Commission. When briefs are requested, a party may file a letter setting forth its arguments instead of filing a brief. The provisions of this rule shall apply to such letters.

(b) *Time for filing briefs.* When briefs are requested under paragraph (a), a briefing notice shall be issued to the parties at a time reasonably in advance of the date when the case is scheduled for disposition at a Commission meeting. Unless the briefing notice provides otherwise, the time for filing of briefs shall be as follows:

(1) *Appeal by one party.* A party whose petition for review or for interlocutory appeal is granted or whose interlocutory appeal is certified shall file a brief within 40 days after the date of the briefing notice. All other parties shall file briefs within 30 days after the brief of the petitioning or appealing party is served.

(2) *Appeals by two or more parties.* When petitions of two or more parties are directed for review, each such party shall file an initial brief addressing the issues on which it appeals within 40 days after the date of the briefing notice and may file a brief responding to the initial brief of the other party within 30 days after the initial brief of the other party or parties is served. This sequence of briefing shall be followed in the event that two or more parties' petitions for interlocutory appeal are granted or two or more parties's interlocutory appeals are certified.

(3) *Direction for review on the motion of a Commission member.* When no petition for discretionary review is granted and a member directs review of a Judge's decision on his own motion, all briefs shall be filed within 40 days after the date of the briefing notice.

(4) *Additional briefs.* Additional briefs shall not be allowed except by leave of the Commission.

(c) *Motion for extension of time for filing brief.* Any extension of time to file a brief shall not be granted except in extraordinary circumstances. A motion for extension of time to file a brief shall be filed within the time limit prescribed in paragraph (b) of this section and shall include the following information: When the brief is due; the number and duration of extensions of time that have been granted to each party; the length of extension being requested; the specific reasons for the extension being requested; and an assurance that the brief will be filed within the time extension requested.

(d) *Consequences of late filing of brief.* The Commission may decline to accept a brief that is not timely filed.

(e) *Length of brief.* Except by

permission of the Commission, a brief shall contain no more than 35 pages of text.

(f) *Table of contents.* A brief in excess of 15 pages shall include a table of contents.

(g) *Failure to meet requirements.* The Commission may return briefs that do not meet the requirements of paragraphs (e) and (f) of this section.

(h) *Number of copies.* Five copies of a brief shall be filed. See § 2200.7(a).

8. Section 2200.100 is revised to read as follows:

#### § 2200.100. Settlement.

(a) *Policy.* Settlement is permitted at any stage of the proceedings. Settlements submitted for consideration after the Judge's decision has been directed for review shall be filed with the Executive Secretary. A settlement proposal shall be approved when it is consistent with the provisions and objectives of the Act.

(b) *Requirements.* Every settlement proposal submitted to the Judge or Commission shall include, where applicable, the following:

(1) A motion to amend or withdraw a citation, notification of proposed penalty, notice of contest, or petition for modification of abatement;

(2) A statement that payment of the penalty has been tendered or a statement of a promise to pay; and

(3) A statement that the cited condition has been abated or a statement of the date by which abatement will be accomplished.

(c) *Filing; service and notice.* When a settlement proposal is filed with the Judge or Commission, it shall also be served upon represented and unrepresented affected employees in the manner prescribed for notices of contest in § 2200.7. Proof of service shall accompany the settlement proposal. A settlement proposal shall not be approved until at least 10 days following service of the settlement proposal on affected employees.

9. A new subpart M is added. Subparts H through L are reserved. The new subpart M reads as follows:

#### Subpart M—Simplified Proceedings

##### Preamble

Sec.

2200.200 Purpose.

2200.201 Application.

2200.202 Eligibility for simplified proceedings.

2200.203 Commencing simplified proceedings.

2200.204 Filing of pleadings.

2200.205 Discussion among parties.

2200.206 Conference/Hearing.

2200.207 Reporter present; transcripts.

Sec.

2200.208 Decision of the Judge.

2200.209 Discovery.

2200.210 Interlocutory appeals not permitted.

2200.211 Applicability of Subparts A through G.

Authority: Sec. 12(g) of the Occupational Safety and Health Act, Pub. L. No. 91-590 (29 U.S.C. § 661(f)).

#### Subpart M—Simplified Proceedings

Note.—This subpart shall be instituted on an experimental basis for a period of 1 year from its effective date. The final status of this subpart will be determined by the Commission at the conclusion of the experimental period.

##### § 2200.200 Purpose.

(a) The purpose of this subpart is to provide simplified procedures for resolving contests under the Occupational Safety and Health Act of 1970, so that parties before the Commission may save time and expense while preserving fundamental procedural fairness. The rules shall be construed and applied to accomplish these ends.

(b) Procedures under this subpart are simplified in a number of ways. The major differences between these procedures and those provided in subparts A through G of the Commission's rules of procedure are the following: (1) Pleadings generally are not permitted or required. Early discussions among the parties will inform the parties of the legal and factual matters in dispute and narrow the issues to the extent possible. (2) Discovery is generally not permitted. (3) The Federal Rules of Evidence do not apply. (4) Interlocutory appeals are not permitted.

##### § 2200.201 Application.

The rules in this subpart shall govern proceedings before an Administrative Law Judge when (a) the case is eligible for simplified proceedings under § 2200.202, (b) any party requests simplified proceedings, and (c) no party files an objection to the request.

##### § 2200.202 Eligibility for simplified proceedings.

A case is eligible for simplified proceedings unless it concerns an alleged violation of section 5(a)(1) of the Act (29 U.S.C. 654(a)(1)) or an alleged failure to comply with a standard listed in table A:

##### Table A

All standards listed are found in title 29 of the Code of Federal Regulations:

§ 1910.94	§ 1910.96
§ 1910.95	§ 1910.97



§§ 1910.1000 to § 1910.1045, and any occupational health standard that may be added to subpart Z of part 1910.

§ 1926.52            § 1926.55  
§ 1926.53            § 1926.57  
§ 1926.54            § 1926.800(c)

**§ 2200.203 Commencing simplified proceedings.**

(a) *Requesting simplified proceedings.*

(1) *Who may request.* Any party may request simplified proceedings.

(2) *When to request.* After the Commission receives an employer's or employees' notice of contest or petition for modification of abatement, the Executive Secretary shall issue a notice indicating that the case has been docketed. A request for simplified proceedings, if any, shall be filed within 10 days after the notice of docketing is received, unless the notice of docketing states otherwise.

(3) *How to request.* A simple statement is all that is necessary. For example, "I request simplified proceedings" will suffice. The request shall be filed with the Executive Secretary and served in the manner prescribed for notices of contest in § 2200.7.

(4) *Effect of the request.* For those cases eligible under § 2200.202, simplified proceedings are in effect when any party requests simplified proceedings and no party files a timely objection to the request.

(b) *Objecting to simplified proceedings.* (1) *Who may object.* Any party may object to a request for simplified proceedings.

(2) *When to object.* An objection shall be filed within 15 days after the request for simplified proceedings is served.

(3) *How to object.* A simple statement is all that is necessary. For example, "I object to simplified proceedings" will suffice. An objection shall be filed with the Executive Secretary and served in the manner prescribed for notices of contest in § 2200.7.

(4) *Effect of the objections.* The filing of a timely objection shall preclude the institution of simplified proceedings.

(c) *Notice.* (1) When the period for objecting to simplified proceedings expires and no objection has been filed, the Commission shall notify all parties that simplified proceedings are in effect.

(2) When a party files a timely objection to a request for simplified proceedings, the Commission shall notify all parties that the case shall continue under conventional procedures (Subparts A through G).

**§ 2200.204 Filing of pleadings.**

(a) *Complaint and answer.* There shall be no complaint or answer in simplified

proceedings. If the Secretary has filed a complaint under § 2200.33, a response to an employee contest under § 2200.35, or a response to a petition under § 2200.34, the complaint or response shall not be included in the record. No response to these documents shall be required.

(b) *Motions.* A primary purpose of simplified proceedings is to eliminate, as much as possible, motions and similar documents. A motion will not be viewed favorably if the subject of the motion has not been first discussed among the parties prior to the conference/hearing.

**§ 2200.205 Discussion among parties.**

Within a reasonable time before the conference/hearing, the parties shall meet, or confer by telephone, and discuss the following: Settlement of the case; the narrowing of issues; an agreed statement of issues and facts; defenses; witnesses and exhibits; motions; and any other pertinent matter.

**§ 2200.206 Conference/Hearing.**

(a) The Judge shall schedule and preside over a conference/hearing, which shall be divided into two segments: a conference and a hearing.

(b) *Conference.* At the beginning of the conference, the Judge shall enter into the record all agreements reached by the parties as well as defenses raised during the discussion set forth in § 2200.205. The parties and the Judge then shall attempt to resolve or narrow the remaining issues. At the conclusion of the conference, the Judge shall enter into the record any further agreements reached by the parties.

(c) *Hearing.* The Judge shall hold a hearing on any issue that remains in dispute at the conclusion of the conference. The hearing shall be in accordance with 5 U.S.C. 554.

(1) *Evidence.* Oral or documentary evidence shall be received, but the Judge may exclude irrelevant or unduly repetitious evidence. Testimony shall be given under oath. The Federal Rules of Evidence shall not apply.

(2) *Oral and written argument.* Each party may present oral argument at the close of the hearing. Parties wishing to present written argument shall notify the Judge at the conference/hearing so that the Judge may set a reasonable period for the prompt filing of written argument.

**§ 2200.207 Reporter present; transcripts.**

A reporter shall be present at the conference/hearing. An official verbatim transcript of the hearing shall be prepared and filed with the Judge. Parties may purchase copies of the transcript from the reporter.

**§ 2200.208 Decision of the Judge.**

(a) The Judge shall issue a written decision in accordance with § 2200.90.

(b) After the issuance of the Judge's decision, the case shall proceed in the conventional manner (Subparts A through G).

**§ 2200.209 Discovery.**

Discovery, including requests for admissions, shall not be allowed except by order of the Judge.

**§ 2200.210 Interlocutory appeals not permitted.**

Appeals to the Commission of a ruling made by a Judge which is not the Judge's final disposition of the case are not permitted.

**§ 2200.211 Applicability of Subparts A through G.**

Sections 2200.6, 2200.33, 2200.34(d)(4), 2200.35, 2200.36, 2200.38, and 2200.75 shall not apply to simplified proceedings. All other rules contained in subparts A through G of the Commission's rules of procedure shall apply when consistent with the rules in this subpart governing simplified proceedings.

Signed this 30th day of November, 1979.

Timothy F. Cleary,  
*Chairman.*

Frank R. Barnako,  
*Commissioner.*

Bertram R. Cottine,  
*Commissioner.*

[FR Doc. 79-37363 Filed 12-4-79; 8:45 am]

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# Reader Aids

Federal Register

Vol. 44, No. 235

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## INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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- 202-783-3238 Subscription orders (GPO)  
 202-275-3054 Subscription problems (GPO)  
 "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):  
 202-523-5022 Washington, D.C.  
 312-663-0884 Chicago, Ill.  
 213-688-6694 Los Angeles, Calif.  
 202-523-3187 Scheduling of documents for publication  
 523-5240 Photo copies of documents appearing in the Federal Register  
 523-5237 Corrections  
 523-5215 Public Inspection Desk  
 523-5227 Finding Aids  
 523-5235 Public Briefings: "How To Use the Federal Register."

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 523-3517  
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- 523-5233 Executive Orders and Proclamations  
 523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

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- 523-5239 TTY for the Deaf  
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 523-3408 Automation  
 523-4534 Special Projects  
 523-3517 Privacy Act Compilation

## FEDERAL REGISTER PAGES AND DATES, DECEMBER

69271-69608.....	3
69609-69916.....	4
69917-70114.....	5

## CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

<b>3 CFR</b>	208.....	69640
<b>Executive Orders:</b>	211.....	69640
12173.....	212.....	69641
12174.....	215.....	69641
<b>Reorganization Plans:</b>	296.....	69641
No. 3 of 1979.....	297.....	69633
	385.....	69642
<b>5 CFR</b>	399.....	69915
213.....	1209.....	69935
<b>Proposed Rules:</b>	1216.....	69920
Ch. I.....	<b>Proposed Rules:</b>	
	241.....	69968
<b>6 CFR</b>	380.....	69912
702.....		
703.....	<b>15 CFR</b>	
704.....	<b>Proposed Rules:</b>	
	369.....	69665
<b>7 CFR</b>	377.....	69968
905.....	935.....	69970
910.....		
912.....	<b>16 CFR</b>	
913.....	5.....	69284
987.....	306.....	69920
1435.....		
1464.....	<b>17 CFR</b>	
2852.....	<b>Proposed Rules:</b>	
<b>Proposed Rules:</b>	Ch. I.....	69304
726.....		
906.....	<b>18 CFR</b>	
944.....	1.....	69284
1421.....	2.....	69935
1426.....	271.....	69642, 69935
1802.....	274.....	69642
1930.....	707.....	69921
<b>9 CFR</b>	<b>Proposed Rules:</b>	
201.....	292.....	69978
<b>Proposed Rules:</b>		
307.....	<b>21 CFR</b>	
381.....	178.....	69649
	548.....	69650
<b>10 CFR</b>	<b>Proposed Rules:</b>	
212.....	58.....	69666
271.....	131.....	69668, 69669
515.....	320.....	69669
<b>Proposed Rules:</b>	438.....	69768
211.....	452.....	69670
212.....	868.....	69673
<b>12 CFR</b>	<b>23 CFR</b>	
11.....	<b>Proposed Rules:</b>	
225.....	657.....	69586
226.....		
613.....	<b>24 CFR</b>	
614.....	<b>Proposed Rules:</b>	
616.....	390.....	69977
	570.....	69673
<b>14 CFR</b>	571.....	69304
39.....		
71.....	<b>26 CFR</b>	
207.....	48.....	69924

**27 CFR****Proposed Rules:**

5..... 69674  
13..... 69674  
19..... 69674  
170..... 69674  
173..... 69674  
186..... 69674  
194..... 69674  
195..... 69674  
196..... 69674  
197..... 69674  
200..... 69674  
201..... 69674  
211..... 69674  
212..... 69674  
213..... 69674  
231..... 69674  
240..... 69674  
250..... 69674  
251..... 69674  
252..... 69674

**28 CFR**

0..... 69926

**29 CFR**

2200..... 70106

**Proposed Rules:**

1999..... 69675

**30 CFR**

601..... 69927

**31 CFR**

316..... 69286  
321..... 69286  
332..... 69286  
342..... 69286  
535..... 69286, 69650

**32 CFR**

860..... 69286

**33 CFR**

82..... 69297  
204..... 69298  
207..... 69650

**Proposed Rules:**

150..... 69305  
160..... 69306

**37 CFR****Proposed Rules:**

202..... 69977

**39 CFR****Proposed Rules:**

927..... 69682

**40 CFR**

52..... 69928  
60..... 69298  
86..... 69416

**Proposed Rules:**

Ch. I..... 69978  
52..... 69683-69685  
65..... 69685  
81..... 69685  
136..... 69464  
410..... 69687  
425..... 69688

**41 CFR****Proposed Rules:**

Ch. 51..... 69308

**42 CFR**

36..... 69933

**Proposed Rules:**

85..... 69689  
85a..... 69689

**43 CFR****Proposed Rules:**

2090..... 69868  
2300..... 69868  
2310..... 69868  
2320..... 69868  
2340..... 69868  
2350..... 69868

**45 CFR**

1060..... 69299

**Proposed Rules:**

1328..... 70064

**46 CFR**

151..... 69299  
153..... 69299  
310..... 69301

**Proposed Rules:**

4..... 69308  
26..... 69308  
33..... 69311  
35..... 69308  
78..... 69308  
94..... 69311  
97..... 69308  
109..... 69308  
167..... 69308  
185..... 69308  
192..... 69311  
196..... 69308

**47 CFR**

1..... 69301  
73..... 69933  
94..... 69301

**Proposed Rules:**

90..... 69689

**49 CFR**

1033..... 69302

**Proposed Rules:**

1100..... 69693

**50 CFR****Proposed Rules:**

651..... 69312

## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

\*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

## Rules Going Into Effect Today

## ENVIRONMENTAL PROTECTION AGENCY

63749 11-5-79 / Pesticides; registration, reregistration and classification procedures

## FEDERAL RESERVE SYSTEM

65051 11-9-79 / Bank holding companies and change in bank control; nonbank activities

## Next Week's Deadlines for Comments On Proposed Rules

## AGRICULTURE DEPARTMENT

## Agricultural Marketing Service—

57932 10-9-79 / Cotton classification under cotton futures legislation; comments by 12-10-79

## Food and Nutrition Service—

65077 11-9-79 / Establishing procedures for reducing Food Stamp benefits; comments by 12-10-79

65505 11-20-79 / Summer Food Service Program; changes directed at reducing mismanagement, waste, and abuse in the program; comments by 12-11-79

## Food Safety and Quality Service—

58916 10-12-79 / Standards for dry whey; comments by 12-11-79

## Office of the Secretary—

57931 10-9-79 / Timing of export sales reporting; comments by 12-10-79

## ARTS AND HUMANITIES NATIONAL FOUNDATION

63120 11-2-79 / Nondiscrimination on the basis of age; comments by 12-15-79

[First published at 44 FR 57130, 10-4-79]

## CIVIL AERONAUTICS BOARD

66835 11-21-79 / Transportation of mail and establishment of mail rates; reply comments by 12-11-79

[Originally published at 44 FR 52246, 9-7-79]

## COMMERCE DEPARTMENT

## Maritime Administration—

58929 10-12-79 / Requirements for establishing U.S. citizenship; comments by 12-11-79

## ENERGY DEPARTMENT

61188 10-24-79 / Federal loan guarantees for alternative fuel demonstration facilities; comments by 12-12-79

## Economic Regulatory Administration—

59240 10-15-79 / Mandatory petroleum allocation; phased deregulation of upper tier crude oil; comments by 12-10-79

61169 10-24-79 / Retailer price information amendments and posting rules for motor gasoline; comments by 12-11-79

## Federal Energy Regulatory Commission—

66205 11-19-79 / Interlocking positions under Sec. 211 of the Public Utility Regulatory Policies Act of 1978; comments by 12-10-79

67166 11-23-79 / Statement of policy on distributor access to Outer Continental Shelf gas; comments by 12-10-79

## ENVIRONMENTAL PROTECTION AGENCY

65084 11-9-79 / Approval and promulgation of State Implementation Plans, Washington State; comments by 12-10-79

57792 10-5-79 / Automobile and light-duty truck surface coating operations; standards of performance; comments by 12-14-79

65615 11-14-79 / Criteria for classification of solid waste disposal facilities and practices; comment period extended from 11-13-79 to 12-13-79

[Originally published at 44 FR 53465, 9-13-79]

46481 8-8-79 / Emission monitoring of stationary sources; comments by 12-10-79

[Comments extended at 44 FR 55395, 9-26-79]

65613 11-14-79 / Maryland State implementation plan; approval; comments by 12-14-79

58662 10-10-79 / National emission standards for hazardous air pollutants; generic standards; comments by 12-10-79

- 65614 11-14-79 / Special conditions for offsetting emissions under the California new source review provisions of the State implementation plan; comments by 12-14-79
- 58602 10-10-79 / Standards of performance for new stationary sources; continuous monitoring performance specifications; comments by 12-10-79
- 59106 10-12-79 / Submission of Notice of Manufacture or Importation of PBB's and Tris; comments by 12-11-79  
[Corrected at 44 FR 64844, 11-8-75]
- 58922 10-12-79 / Texas; Section 107 attainment status designations; comments by 12-11-79
- EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**
- 53706 9-14-79 / Discrimination because of religion; comments by 12-13-79
- FEDERAL COMMUNICATIONS COMMISSION**
- 67191 11-23-79 / Allocating spectrum for, and to establish other rules and policies pertaining to the use of radio in digital termination systems for the provision on common carrier digital telecommunications services; comments by 12-14-79  
[See also 44 FR 51250, 8-31-79]
- 57138 10-4-79 / Bonita Springs, Goulds, and Homestead, Fla., changes in FM table of assignments; reply comments by 12-10-79
- 64442 11-7-79 / Eliminating applicability from the six meter frequency band (50-54 MHz); comments by 12-10-79
- 40532 7-11-79 / Eliminating objectionable loudness of commercial announcements and continuity over AM, FM and television broadcast stations; comments by 12-15-79
- 59578 10-16-79 / MTS and WATS market structure; Memorandum opinion and order; comments extended to 12-14-79  
[Originally published at 44 FR 50866, 8-31-79]
- 62307 10-30-79 / Nighttime power limitations and antenna systems for Class IV AM broadcast stations; reply comments by 12-14-79
- 37008 6-25-79 / Radio frequency devices, biological effects of radiation levels; comments by 12-15-79
- 60112 10-18-79 / UHF television reception improvement provisions; reply comments by 12-10-79  
[Originally published at 44 FR 45227, 8-1-79]
- FEDERAL HOME LOAN BANK BOARD**
- 64840 11-8-79 / Sale of mortgages and participations in mortgages; amendment of definition of "without recourse"; comments by 12-10-79
- FEDERAL MARITIME COMMISSION**
- 65417 11-13-79 / Financial exhibits and schedules; non-vessel operating common carriers in domestic offshore trades; comments by 12-13-79
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
- Public Health Service—
- 58923 10-12-79 / Personnel standards for clinical laboratories; comments by 12-11-79
- INTERIOR DEPARTMENT**
- Hearings and Appeals Office—
- 57948 10-9-79 / Special rules applicable to tribal purchase of interests under special statutes, including hearings and appeals; comments by 12-10-79
- Land Management Bureau—
- 58638 10-10-79 / Simultaneous oil and gas drawing procedures; comments by 12-10-79

**Office of the Secretary—**

- 59096 10-12-79 / Requirement for equal opportunity during construction and operation of the Alaska Natural Gas Transportation System; comments by 12-12-79

**INTERSTATE COMMERCE COMMISSION**

- 64846 11-8-79 / Procedures for filing and processing of temporary authority (including emergency temporary authority applications under 49 U.S.C. 10928); comments by 12-10-79

**JUSTICE DEPARTMENT****Law Enforcement Assistance Administration—**

- 59297 10-15-79 / Draft guideline on alternative education; comments by 12-14-79

**LABOR DEPARTMENT****Occupational Safety and Health Administration—**

- 60333 10-19-79 / Entry and work in confined spaces, in general industry; development of standards; comments by 12-15-79

**NEIGHBORHOOD REINVESTMENT CORPORATION**

- 66587 11-20-79 / Availability and character of records; comments by 12-15-79

**TREASURY DEPARTMENT****Customs Service—**

- 66835 11-21-79 / Public gaugers of imported petroleum and petroleum products; comments by 12-14-79

**Internal Revenue Service—**

- 57940 10-9-79 / Submission of copies of certain withholding exemption certificates to the Internal Revenue Service; comments by 12-10-79

**VETERANS' ADMINISTRATION**

- 65083 11-9-79 / Veterans education loans; comments by 12-10-79

**Next Week's Meetings****ADMINISTRATIVE CONFERENCE OF UNITED STATES**

- 67482 11-26-79 / Informal Action Committee, Washington, D.C. (open), 12-13-79
- 67482 11-26-79 / Judicial Review Committee, Washington, D.C. (open), 12-13-79
- 67482 11-26-79 / Plenary Session, Washington, D.C. (open), 12-13-79

**AGING FEDERAL COUNCIL**

- 66247 11-19-79 / Washington, D.C. (open), 12-10 through 12-12-79

**AGRICULTURE DEPARTMENT****Office of the Secretary—**

- 61237 10-24-79 / Structure of Agriculture, Denver, Colo. (open), 12-11-79
- 61237 10-24-79 / Structure of Agriculture, Fresno, Calif. (open), 12-13-79
- 61237 10-24-79 / Structure of Agriculture, Spokane, Wash. (open), 12-12-79

**ARTS AND HUMANITIES NATIONAL FOUNDATION**

- 67547 11-26-79 / Artists-in-School Panel, Washington, D.C. (open), 12-12 through 12-14-79
- 66713 11-20-79 / Humanities Panel Advisory Committee, Washington, D.C. (closed), 12-13 and 12-14-79
- 65825 11-15-79 / Media Arts Advisory Panel (Production Aid), Washington, D.C. (closed), 12-10 through 12-12-79
- 67250 11-23-79 / Museum Advisory Panel, Washington, D.C. (closed), 12-11-79



**CIVIL RIGHTS COMMISSION**

- 65802 11-15-79 / Iowa Advisory Committee, Iowa City, Iowa (open), 12-11-79
- 67202 11-23-79 / Michigan Advisory Committee, Saginaw, Mich. (open), 12-15-79
- 65619 11-14-79 / New Mexico Advisory Committee, Albuquerque, N. Mex. (open), 12-10-79
- 67696 11-27-79 / Washington Advisory Committee, Seattle, Wash. (open), 12-13-79
- 66226 11-19-79 / Wisconsin Advisory Committee, Madison, Wis. (open), 12-11-79

**COMMERCE DEPARTMENT****Industry and Trade Administration—**

- 67203 11-23-79 / Semiconductor Technical Advisory Committee, Washington, D.C. (partially open), 12-12-79

**National Oceanic and Atmospheric Administration—**

- 66228 11-19-79 / Mid-Atlantic Fishery Management Council, Philadelphia, Pa. (open), 12-12 through 12-14-79
- 68004 11-28-79 / New England Fishery Management Council, Danvers, Mass. (open), 12-12 and 12-13-79
- 67494 11-26-79 / New England Fishery Management Council's Scientific and Statistical Committee, Peabody, Mass. (open), 12-12-79
- 68005 11-28-79 / North Pacific Fishery Management Council and Advisory Panel, Anchorage, Alaska (open), 12-11 through 12-14-79
- 67204 11-23-79 / Pacific Fishery Management Council's Herring Subpanel, Seattle, Wash. (open), 12-11-79
- 67204 11-23-79 / Pacific Fishery Management Council's Pink Shrimp Subpanel, Renton, Wash. (open), 12-12-79
- 63560 11-5-79 / Pacific Fishery Management Council and its Statistical Committee, Renton, Wash. (partially open), 12-11 through 12-13-79

**CONSUMER PRODUCT SAFETY COMMISSION**

- 66011 11-16-79 / Product Safety Advisory Council, Washington, D.C. (open), 12-10-79

**DEFENSE DEPARTMENT****Army Department—**

- 66651 11-20-79 / Army Science Board, Washington, D.C. (closed), meeting dates changed from 11-27 and 11-28-79 to 12-11 and 12-12-79  
[Originally published at 44 FR 64484, 11-7-79]
- 66235 11-19-79 / Army Science Board, Fort Leavenworth, Kans. (closed), 12-11 through 12-13-79
- 66650 11-20-79 / Military Traffic Management Command, Military Personal Property Claims Symposium, Falls Church, VA. (open), 12-13-79
- Engineers Corps, Army Department—
- 64564 11-8-79 / National Waterways Study: Findings of Technical Elements (open), Wash., D.C. 12-11-79; Chicago, Ill. 12-12-79; and Portland, Oregon, 12-14-79

**Navy Department—**

- 68009 11-28-79 / Naval Research Advisory Committee, Washington, D.C. (closed), 12-13 and 12-14-79
- Office of the Secretary—
- 60368 10-19-79 / Wage Committee, Washington, D.C. (closed), 12-11-79

**ENERGY DEPARTMENT**

- 66018 11-16-79 / National Petroleum Council, Washington, D.C. (open), 12-12-79

**Federal Energy Regulatory Commission—**

- 67709 11-27-79 / Revision of Rules of Practice and Procedure Advisory Committee, Review of Decisional Processes Subcommittee, Washington, D.C. (open), 12-12-79

**ENVIRONMENTAL PROTECTION AGENCY**

- 66061 11-16-79 / Discussion of impact of designation of Biscayne Aquifer as sole source aquifer, Sebring and Miami, Fla. (open), 12-10 and 12-11-79
- 65670 11-14-79 / National Air Pollution Control Techniques Advisory Committee, Raleigh, N.C. (open), 12-12 and 12-13-79
- 68027 11-28-79 / National Drinking Water Advisory Council, Washington, D.C. (open), 12-13 and 12-14-79
- 67524 11-26-79 / Science Advisory Board, Arlington, Va. (open), 12-13 and 12-14-79
- 67723 11-27-79 / Science Advisory Board Executive Committee, Toxic Substances Subcommittee, Washington, D.C. (open), 12-13-79

**FEDERAL COMMUNICATIONS COMMISSION**

- 50098 8-27-79 / Special Committees of the Radio Technical Commission for Marine Services, Washington, D.C. (open), 12-11 through 12-14-79

**FEDERAL PREVAILING RATE ADVISORY COMMITTEE**

- 66685 11-20-79 / Open Committee meetings, Washington, D.C., 12-11 and 12-13-79

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT****Education Office—**

- 67231 11-23-79 / Bilingual Education National Advisory Council, San Antonio, Tex. (open), 12-10 and 12-11-79
- 67232 11-23-79 / Commission on the Review of the Federal Impact Aid Program, Chicago, Ill. (open), 12-14-79

**Health Resources Administration—**

- 64119 11-6-79 / Graduate Medical Education National Advisory Committee, Washington, D.C. (open), 12-10 and 12-11-79
- National Institutes of Health—

- 65481 11-13-79 / Cancer Control Intervention Programs Review Committee, Bethesda, Md. (partially open), 12-14-79

- 65482 11-13-79 / Cancer Control Merit Review Committee, Bethesda, Md. (partially open), 12-12 through 12-14-79

- 59652 10-16-79 / Cause and Prevention Scientific Review Committee, Bethesda, Md. (partially open), 12-14-79

- 59652 10-16-79 / Clinical Cancer Program Project & Cancer Center Support Review Committee (Clinical Cancer Program Project Review Subcommittee), Bethesda, Md. (partially open), 12-10 and 12-11-79

[Corrected at 62955, 11-1-79]

- 59653 10-16-79 / National Institute of Dental Research Programs Advisory Committee, Subcommittee on Periodontal Diseases, Bethesda, Md. (open), 12-13 and 12-14-79

**Office of the Assistant Secretary for Health—**

- 67530 11-26-79 / National Council on Health Care Technology, Washington, D.C. (open), 12-12 and 12-13-79

**Public Health Service—**

- 68035 11-28-68 / Regional technical assistance workshops for prospective applicants to the Adolescent Pregnancy Prevention and Services Projects Grant Program, Atlanta, Ga. (open), 12-12 and 12-13-79

**Social Security Administration—**

- 54128 9-18-79 / Social Security For Your Future, Los Angeles, Calif., 12-22-79

**HISTORIC PRESERVATION, ADVISORY COUNCIL**

- 66860 11-21-79 / Protection of historic and cultural properties, Decatur, Ill. (open), 12-11-79

**INTERIOR DEPARTMENT**

- 67524** National Park Service—  
11-28-79 / Cape Cod National Seashore Advisory Commission, South Wellfleet, Mass. (open), 12-14-79
- 66996** 11-21-79 / Chesapeake and Ohio Canal National Historical Park, Hancock, Md. (open), 12-15-79
- 65206** 11-9-79 / Kalaupapa National Historical Park Advisory Commission, Honolulu, Hawaii (open), 12-13-79

**INTERNATIONAL DEVELOPMENT COOPERATION AGENCY**  
Agency for International Development—

- 67544** 11-28-79 / Joint Research Committee of the Board for International Food and Agricultural Development, Arlington, Va. (open), 12-11 and 12-12-79

**JUSTICE DEPARTMENT**

## Federal Bureau of Investigation—

- 67240** 11-23-79 / Advisory Policy Board, New Orleans, La. (open), 12-12 and 12-13-79

**METRIC BOARD**

- 67546** 11-28-79 / Public Forum, Arlington, Va. (open), 12-13-79

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

- 66713** 11-20-79 / Space and Terrestrial Applications Advisory Committee, Washington, D.C. (open), 12-13 and 12-14-79

**NATIONAL SCIENCE FOUNDATION**

- 67547** 11-28-79 / Advisory Committee for Minority Programs in Science Education, Atlanta, Ga. (open), 12-13 and 12-14-79

**NUCLEAR REGULATORY COMMISSION**

- 68042** 11-28-79 / Reactor Safeguards Advisory Committee, Subcommittee on Power and Electrical Systems, Washington, D.C. (open), 12-13-79

**PENSION POLICY, PRESIDENT'S COMMISSION**

- 42831** 7-20-79 / Study Group on Pension Policy and the Economy (open), 12-11-79

**STATE DEPARTMENT**

- 67008** 11-21-79 / International Radio Consultative Committee, Study Group 1 of U.S. Organization, Washington, D.C. (open), 12-13-79
- 59701** 10-18-79 / Overseas Schools Advisory Council, Washington, D.C. (open), 12-13-79

**TRANSPORTATION DEPARTMENT**

## Federal Aviation Administration—

- 67553** 11-28-79 / Radio Technical Commission for Aeronautics (RTCA), Separation Study Review Group, Washington, D.C. (open), 12-11 and 12-12-79
- 60747** 10-22-79 / Rotorcraft regulatory review program; conference, New Orleans, La., 12-10 through 12-14-79
- 51623** 9-4-79 / Federal Motor Vehicle Safety Standards Child Safety and Motor Vehicles, Washington, D.C. (open), 12-12-79
- 15823** 3-15-79 / NHTSA-Public Industry Technical Meetings, Ann Arbor, Mich. (open), 12-12-79

**TREASURY DEPARTMENT**

## Office of the Secretary—

- 64947** 11-8-79 / U.S. Tax Court Nominating Commission, Washington, D.C. (closed), 12-10-79

**VETERANS' ADMINISTRATION**

- 68059** 11-28-79 / Health Advisory Committee, Related Effects of Herbicides, Washington, D.C. (open), 12-12-79
- 53602** 9-14-79 / Wage Committee, Washington, D.C. (closed), 12-12 and 12-13-79

**Next Week's Public Hearings****AGRICULTURE DEPARTMENT**

## Agricultural Marketing Service—

- 67990** 11-28-79 / Grapes grown in southeastern California; proposed marketing agreement order, Coachella, Calif., 12-12-79

**COMMERCE DEPARTMENT**

## Foreign Trade Zones Board—

- 66226** 11-19-79 / Applications to establish general-purpose foreign-trade zones in South Burlington, Vt.; Burlington, Vt., 12-12-79 and in Bangor, Maine; Bangor, Maine, 12-13-79
- 68501** 11-29-79 / Anchovy fishery, northern; hearing, Long Beach, Calif., 12-15-79
- 68501** 11-29-79 / Anchovy fishery, northern; hearing, Monterey, Calif., 12-14-79
- 64443** 11-7-79 / Gulf of Mexico Fishery Management Council, Panama City, Fla., Cocoa, Fla., and Wilmington, N.C., 12-10-79

- 64443** 11-7-79 / Gulf of Mexico Fishery Management Council, Tampa, Fla., Jacksonville, Fla., and Wilmington, N.C., 12-11-79

- 64443** 11-7-79 / Gulf of Mexico Fishery Management Council, Ft. Myers, Fla., Darien, Ga., and Charleston, S.C., 12-12-79

- 64443** 11-7-79 / Gulf of Mexico Fishery Management Council, Beaufort, S.C., 12-13-79

- 67195** 11-23-79 / Pacific Fishery Management Council, Monterey, Calif. and Astoria, Oreg., 12-14-79

- 67195** 11-23-79 / Pacific Fishery Management Council, North Bend, Oreg. and Long Beach, Calif., 12-15-79

**ENERGY DEPARTMENT**

- 54337** 9-19-79 / Subsidization of motor fuel marketing, Detroit, Mich., 12-11-79

## Economic Regulatory Administration—

- 60307** 10-19-79 / Amendments to Special Rule No. 9 providing for special allocation of middle distillates and to provisions concerning allocation of motor gasoline for priority uses, Washington, D.C., 12-13-79

- 62848** 10-31-79 / Crude oil reseller regulations, Washington, D.C., 12-11-79

- 67602** 11-28-79 / Implementation of Standby Mandatory Crude Oil Allocation Program, Washington, D.C., 12-10-79

## Federal Energy Regulatory Commission—

- 67166** 11-23-79 / Statement of policy; distributor access to Outer Continental Shelf gas, Washington, D.C., 12-10-79

**ENVIRONMENTAL PROTECTION AGENCY**

- 61620** 10-28-79 / Airborne carcinogens; identification; policies and procedures

Washington, D.C., 12-10-79

Boston, Mass., 12-12-79

Houston, Tex., 12-13-79

- 59764** 10-16-79 / Reproposal of premanufacture notice form and provisions of rules, Washington, D.C., 12-12-79

**INTERIOR DEPARTMENT**

## National Park Service—

- 65206** 11-9-79 / Jackson Hole Airport noise abatement plan, Jackson, Wyo., 12-10; and Denver, Colo. 12-11-79

**INTERSTATE COMMERCE COMMISSION**

- 63121** 11-2-79 / Transportation of household goods in interstate and foreign commerce; review of the regulation of carriers, Tampa, Fla., 12-11 and 12-12-79

**TRANSPORTATION DEPARTMENT**

## Federal Aviation Administration—

- 67136** 11-23-79 / Rotorcraft regulatory review, New Orleans, La., 12-10 through 12-14-79

- Federal Railroad Administration—  
64844 11-8-79 / Track safety standards; miscellaneous proposed revisions, Washington, D.C., 12-10 and 12-11-79  
[First published at 44 FR 52104, 9-6-79]  
Research and Special Programs Administration—  
57952 10-9-79 / Transportation of liquids by pipeline; valve spacing on pipelines carrying highly volatile liquids, Washington, D.C., 12-12-79

#### List of Public Laws

[Last Listing December 3, 1979]

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

- S. 411 / Pub. L. 96-129 "Pipeline Safety Act of 1979". (Nov. 30, 1979; 93 Stat. 989) Price: \$1.50.  
H.R. 4391 / Pub. L. 96-130 "Military Construction Appropriation Act, 1980". (Nov. 30, 1979; 93 Stat. 1017) Price: \$.75.  
H.R. 4440 / Pub. L. 96-131 "Department of Transportation and Related Agencies Appropriation Act, 1980". (Nov. 30, 1979; 93 Stat. 1023) Price: \$1.25.  
S. 1157 / Pub. L. 96-132 "Department of Justice Appropriation Act, Fiscal Year 1980". (Nov. 30, 1979; 93 Stat. 1040) Price: \$1.00.  
S. 1871 / Pub. L. 96-133 To amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program, and for other purposes. (Nov. 30, 1979; 93 Stat. 1053) Price: \$.75.

#### Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

##### RULES GOING INTO EFFECT

- 68818 11-30-79 / Commerce/EDA—Supplementary grants for public works projects; effective 11-30-79  
67656 11-27-79 / HUD/CPD—Community development block grants; effective 9-26-79  
69032 11-30-79 / HEW/SSA—Supplemental energy allowance program for the low-income population; effective 11-30-79

##### DEADLINES FOR COMMENTS ON PROPOSED RULES

- 69254 11-30-79 / USDA/FNS—Special supplemental food program for women, infants, and children, proposed changes and extension through FY 1982; comments by 1-28-80

##### APPLICATIONS DEADLINES

- 68524 11-29-79 / HEW/HRA—Graduate programs in health administration; apply by 1-7-80  
68525 11-29-79 / HEW/HRA—Students in schools of public health; apply for traineeship grants by 1-9-80  
69029 11-30-79 / HEW/HDSO—Rehabilitation long-term training; availability of FY 1980 grants; closing dates for applications: 2-1-80 and 2-29-80  
68034 11-28-79 / HEW/NIE—Research on organizational processes in education; apply by 8-18-80  
68042 11-28-79 / Justice/LEAA—Competitive research program on methodological issues in criminal justice research and evaluation; submit proposals by 3-1-80  
68042 11-28-79 / Justice/LEAA—Competitive research program of research on crime control; submit proposals by 4-1-80

##### MEETINGS

- 68945 11-30-79 / Commerce/NTIA—Public Telecommunications Facilities Program, Washington, D.C. 12-13-79  
67732 11-27-79 / HEW/NIH—Cardiology Advisory Committee, Bethesda, Md. (open), 1-14 and 1-15-79  
68035 11-28-79 / HEW/NIH—Correction to phone number for information on meeting of Heart, Lung, and Blood Research Review Committee A

- 68035 11-28-79 / HEW/PHS—Regional technical assistance workshops for prospective applicants to the Adolescent Pregnancy Prevention and Services Projects Grants Program  
Albany, N.Y.: 11-27 and 11-28-79  
Chicago, Ill.: 12-6 and 12-7-79  
Atlanta, Ga.: 12-12 and 12-13-79  
San Francisco, Calif.: 12-19 and 12-20-79  
Denver, Colo.: 1-10 and 1-11-80  
67547 11-26-79 / NFAH—Dance Panel, Washington, D.C. (partially open), 12-13 through 12-16-79  
68042 11-28-79 / NFAH—Humanities Advisory Panel, Washington, D.C. (closed), 12-19-79  
68042 11-28-79 / NFAH—Humanities Advisory Panel, December 6 and 7, 1979 meeting in Washington, D.C. cancelled  
69058 11-30-79 / NSF—Materials Research Advisory Committee, Subcommittee on Metallurgy and Materials, Washington, D.C. (closed), 12-18 and 12-19-79  
67737 11-27-79 / NSF—Social and Economic Science Advisory Committee, Measurement Methods and Data Resources Subcommittee, Washington, D.C. (partially open), 12-7 and 12-8-79  
69064 11-30-79 / President's Commission on White House Fellowships, Meeting, Washington, D.C. (open), 1-11-80  
OTHER ITEMS OF INTEREST  
67682 11-27-79 / USDA/FMHA—FY 1980 allocations  
69032 11-30-79 / HEW/HDSO—Federal allotment to States for Social Services expenditures for FY 1981  
69044 11-30-79 / Justice/LEAA—Competitive graduate research Fellowship program, Second FY 1980; submit concept papers by 1-2-80

